

US 9TH CIR. DIST. 12

STATE OF WASHINGTON

BY

COURT OF APPEALS
DIVISION TWO
OF THE STATE OF WASHINGTON

STATE OF WASHINGTON)

Respondent,)

v.)

CHARLES K. MAYFIELD,)

Appellant.)

No. #33740-1-II

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Charles K. Mayfield have received and reviewed the opening brief prepared by my attorney. Below are the additional grounds for review that are not addressed in that brief. I understand the Court will review this Statement of Additional Grounds for Review when my appeal is considered on the merits.

Date: 9-15-06

Signature: C. Mayfield

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1 VII. QUESTIONS OF ERROR PRESENTED:

2 GROUND ONE:

- 3 (1). DID THE COURT ERR WHEN IT AGREED WITH THE STATE'S
4 INTERPRETATION THAT PROBABLE CAUSE WAS ESTAB-
5 LISHED TO WARRANT A SEARCH OF MAYFIELD'S HOME,
6 AND DENYING MAYFIELD'S MOTION TO SUPPRESS EVIDENCE
7 OBTAINED PURSUANT TO THE SEARCH WARRANT'S WHEN
8 THERE WAS INSUFFICIENT PROBABLE CAUSE TO SUPPORT
9 THE ISSUANCE OF THE INITIAL SEARCH WARRANT?

7 GROUND TWO:

- 8 (2). WHETHER OR NOT PETITIONER'S SIXTH AND FOURTEENTH AMENDMENT'S
9 TO THE U.S. CONST. ART. 1 §22 OF THE WASH. CONST. WERE
10 VIOLATED BY INEFFECTIVE ASSISTANCE OF COUNSEL?

11 a). Was Mayfield's counsel ineffective when counsel failed to
12 show that the informant Matthew Ellefson had a prior conviction
13 for a "Crime of Dishonesty"?

14 b). Was Mayfield's counsel ineffective when counsel failed to
15 request a "FRANKS" hearing to make a preliminary showing that
16 the affiant knowingly and intentionally or with reckless disregard
17 for the truth made material omissions in the affidavit for prob-
18 able cause?

19 c). Was Mayfield's counsel ineffective, when counsel failed
20 to object to violations against the fifth amendment of the U.S.
21 Const. when the state compelled Mayfield to stipulate to a prior
22 felony for taking the stand in his own defense and with out warn-
23 ing Mayfield that he was exposing himself to a realistic threat
24 of self-incrimination?

25 d). Was Mayfield's counsel ineffective when counsel failed to
26 object to two (2) omissions from the jury instructions that are
essential elements to an affirmative defense. Denying Mayfield
of his right to a fair trial?

1 e). Was Mayfield's counsel ineffective when counsel failed to
2 object to the courts abuse of discretion, exceeding its statutory
3 authority and lack of jurisdiction to punish Mayfield when he
4 was no longer liable? In addition to violations against due pro-
5 cess and equal protection of the law under the protection of
6 the fourteenth amendment of the U.S. const. when the court punish-
7 ed Mayfield as a result of the ineffective assistance of May-
8 field's earlier counsel and even though Mayfield was in compliance
9 with the affirmative defense portion of the very statute relied
10 upon to prosecute him?

11 f). Was Mayfield's counsel ineffective when counsel failed to
12 object to the trial courts abuse of discretion or misapplication
13 of the law or both at sentencing by arbitrarily counting separately
14 Mayfield's two (2) counts of bail jumping that Mayfield received
15 for simultaneously failing to appear for both cause No's. at 8:30
16 a.m. on September 9, 2004? And another two (2) counts for simultan-
17 eously failing to appear for both cause No's. on November 3, 2004?
18 For a total of four (4) current offender points for purposes of
19 sentencing, with out engaging in a same criminal conduct analysis
20 to encompass each offense as only one (1) additional current off-
21 ender point for a total of only two (2) additional points for
22 both cause No's. on both dates?

23 GROUND THREE:

- 24 (3). WHETHER OR NOT THE COURT ABUSED ITS DISCRETION WHEN IT DENIED
25 MAYFIELD SAME CRIMINAL CONDUCT FOR SIMULTANEOUSLY FAILING
26 TO APPEAR FOR TWO SEPARATE CAUSE NUMBERS?

GROUNDS FOUR AND FIVE:

- (4). WHETHER OR NOT THE COURT ABUSED ITS DISCRETION OR MISAPPLIED
THE LAW OR BOTH WHEN IT PUNISHED MAYFIELD AFTER THE FINAL
DISPOSITION OF THE QUASH PROCEEDINGS? AND
(5). WHETHER OR NOT THE COURT LACKED JURISDICTION TO PUNISH
MAYFIELD AS A RESULT OF THE FINAL DISPOSITION OF THE QUASH
PROCEEDINGS?

GROUND SIX:

- (6). WHETHER OR NOT THE COURT ABUSED ITS DISCRETION OR MISAPPLIED
THE LAW OR BOTH BY ARBITRARILY COUNTING SEPARATELY MAYFIELD'S
FIVE COUNTS OF BAIL JUMPING WITH OUT ENGAGING IN A SAME CRIM-
INAL CONDUCT ANALYSIS?

1 a)1). Did the court abuse its discretion or misapply the law or
2 both by arbitrarily counting separately Mayfield's five (5) counts
3 of bail jumping he received at sentencing, without engaging in
4 a same criminal conduct analysis, for purposes of sentencing?

5 a)2). Did Mayfield's five (5) counts of bail jumping encompass
6 same criminal conduct under R.C.W. § 9.94A.589 (1)(a), for sentenc-
7 ing purposes, because Mayfield satisfied all three (3) elements
8 required in accordance with the plain meaning of the language
9 provided in the same criminal conduct statute?

10 Or, in the alternative;

11 a)3). Under violation of "NOTICE" and the Due Process clause,
12 should the R.C.W. § 9.94A.589 (1)(a) same criminal conduct statute
13 be struck down, void for vagueness and ambiguity for its "Congruous"
14 doubleness of meaning?

15 GROUND SEVEN:

16 (7). WHETHER OR NOT THE COURT DENIED MAYFIELD HIS RIGHT TO A
17 DEFENSE?

18 Did the trial court err in failing to allow Mayfield's bail bonding
19 agent to testify and provide critical independent corroborating
20 evidence regarding Mayfield's compliance to the affirmative defense
21 portion of the bail jumping statute, depriving Mayfield of his
22 right to present a defense?

23 VI STATEMENT OF FACTS:

24 On the evening of May 23, 2004 at 1741 hours officer Lien, a member
25 of the Boney Lake police dept. responded to a theft/burglary call.
26 Officer Lien contacted the victim, and witness. The victim advised
officer Lien that he was missing a yellow Dewalt blade saw. The
witness, Mr. Edward A. Elliot (Elliot) a friend of Mr. Matthew
B. Ellefson (Ellefson)² advised officer Lien that he believed
Ellefson had stolen the saw because he had seen Ellefson at the
crime scene at 10:00 p.m. and again at 1:30 a.m. the night before.
SEE EX. (2a,b,c)

² Matthew B. Ellefson is the informant
in this case and will also be refered
to as Ellefson.

1 A second witness advised offer Lien that he had seen Ellefson
2 parked in a wooded area near the crime scene. The second witness
3 stated that Ellefson immediately left the area when he, Ellefson
4 saw the witness. The witness then walked over and checked around
5 the area where Ellefson was parked and observed the missing
6 blade saw underneath some plywood and shrubbery. The next day
7 on May 24, 2004 at 1330 hours a full scale S.W.A.T. type invasion
8 descended upon Mayfield's home. The search did not produce the
9 missing parts to the stolen motorcycle. However, Mayfield was
10 charged with UPCS & UPFA 2, for drugs and a firearm that were
11 found at the residence.

12 According to discovery, on May 24, 2004 nine (9) hours later
13 at 2120 hours Matthew B. Ellefson was found in possession of
14 a stolen motorcycle. When questioned by the police about the
15 motorcycle, Ellefson said he bought it from Joe Shockey, (James
16 Joseph Shockey) (Shockey)³, (Charles Mayfield the defendant's
17 brother) (Mayfield). Ellefson went on to say that he was just
18 on his way to give it back to Shockey. When the police inquired
19 as to the whereabouts of the motorcycle's missing parts, Ellefson
20 said, Shockey said, the rest of the parts were at his brother
21 Chuck's house in Bonney Lake. On or about May 30, 2004

22 ³James Joseph Shockey is the appellant
23 Mayfield brother and will also be refered
24 to as Joe Shockey or Shockey
25
26

1 Mayfield moved to Ellensburg. At the time Mayfield had current
2 charges pending for PSP1, cause number #04-1-01851-1 (COA #33734-7-
3 II). On July 1, 2004, the court began scheduling Mayfield, to appear
4 simultaneously for both cases. Mayfield continued in his obligations
5 to the court. On two separate occasions, August 3, 2004 at 8:30
6 a.m., and again on August 23, 2004 at 8:30 a.m., after Mayfield had
7 driven the one hundred miles from Ellensburg to court, Upon arrival,
8 Mayfield met with his attorney who informed him that court had been
9 canceled that day. Then, as a result of a misunderstanding, between
10 Mayfield and his newly appointed counsel, when Mayfield's counsel
11 advised him that he was not required to appear to the Sep. 9, 2004
12 8:30 a.m. proceedings, Mayfield failed to appear, and was charged
13 with bail jumping for both cases. On the afternoon of Sep. 9, 2004,
14 Mayfield received a phone call at his home near Ellensburg, from his
15 attorney to inform him that he had missed court at 8:30 a.m. that
16 morning.
17 Mayfield immediately called his bail bond company. Then at the
18 advice of both his attorney and his bail bond agent he immediately
19 drove the one hundred miles to Tacoma, and scheduled a quash hearing
20 before 5:00 p.m. that same day. On Sep. 28, 2004, Mayfield appeared
21 in open court and the matter of Mayfield's failure to appear was
22 resolved, for both cases, pursuant to the quash proceedings. On, a
23 later date the state amended the information and charge Mayfield
24 with bail jumping for both cases. Mayfield's court appointed
25 attorney was taken off the case for purposes of testifying against
Mayfield.

1 On Oct. 27, 2004, Mayfield did not appear at 8:30 a.m. as required,
2 resulting in a failure to appear, for both cases. Mayfield did
3 appear at the 1:30 p.m. proceedings that same day. The matter was
4 resolved; pursuant to an administrative quash proceeding. As a
5 result, Mayfield was not charged with bail jumping.

6 On Nov. 3, 2004, in the early a.m. hours, Mayfield's vehicle was out
7 of commission, due to heavy snow conditions.

8 As a result, Mayfield simultaneously failed to appear at 8:30 a.m.
9 for both cases. At his earliest opportunity Mayfield, made contact
10 with his attorney and bail bond company. Upon their instructions,
11 Mayfield drove to Tacoma to schedule a quash hearing.

12 On Nov. 19, 2004 Mayfield appeared in open court and the matter of
13 Mayfield's failure to appear was resolved pursuant to the quash
14 proceedings. On a later date the state amended information, and
15 charged Mayfield with bail jumping for both cases. While still out
16 on bail, Mayfield continued to fulfill his obligations to the court,
17 appearing to several more proceedings. on April 25, 2005 Mayfield began
18 trial for cause no. #04-1-02556-9, (COA#33740-1-II). Mayfield was
19 found guilty of all charges except intent to deliver. Mayfield's
20 sentencing hearing was on August 12, 2005. At which time Mayfield
21 also plead guilty to cause no. #04-1-01851-1, (COA#33734-7-II). The
22 court ran all of Mayfield's convictions concurrent with an offender
23 score of twelve (12) points, four (4) prior criminal history points,
24 and eight (8) current offense points. Five, (5), of which are for
25 bail jumping, with a standard sentencing range of 51 to 60 months.
Mayfield received the low-end range of 51 months of confinement and
nine (9) months of community custody.

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2 VII. CONSIDERATIONS OF ETHICAL JURISPRUDENCE:

3 Mayfield humbly reminds the court that he is a layman. A member of
4 the brotherhood of carpenters union; lath and plaster; local 1144.
5 He has a limited education; a high school diploma and a few credits
6 shy of an associate's degree. Mayfield respectfully requests the
7 court to recognize that he is not adept at the general inner-
8 workings of the law and the artful skill of pleading. His endeavors
9 are without the assistance of even a jailhouse lawyer. Mayfield has
10 pursued with painstaking effort to rise to a higher level of
11 understanding of the law in an attempt to present his cause in a
12 suitable manner of expression and format that he believes best
13 conveys his prayer for relief from a manifestation of injustice. In
14 addition, Mayfield asks the court to apply liberal interpretation to
15 his cause; R.A.P. 1.2(a).

16 However inartfully pleaded, his pro se complaint be held to "less
17 stringent standards" than a formal pleading drafted by lawyers.

18 HAINES V. KERNER, 404 U.S. 519, 92 S. Ct.
19 594, 30 L.Ed 2d 652 (1972).

20 In addition, Mayfield respectfully urges the court to interject
21 "Sua Sponte" any grounds that might prove beneficial to his cause.

22 This court has authority to determine
23 whether a matter is properly before the
24 court to perform those acts which are
25 proper to secure fair and orderly review
and waive the rules of appellate
procedure when necessary to "serve the
ends of justice" R.A.P. 1.2(c).
STATE V. AHO, 137 wn.2d 736, 741, 975
P.2d 512 (1999).

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VIII. GROUND'S FOR RELIEF AND ARGUMENT:

(1). THE COURT ERRED IN DENYING MAYFIELD'S MOTION TO SUPPRESS

In ground one (1),(a) of Mayfield's Statement of Additional Grounds in his Direct Appeal, before he received his verbatim trial transcripts, Mayfield claimed ineffective assistance of his trial counsel on the basis that his attorney did not base Mayfield's suppression hearing on the "Unreliability" of the informant and the accuracy of his information. Mayfield has recently received his trial transcripts and can see that at Mayfield's suppression hearing Mayfield's counsel did argue that the four corners of the Affidavit does not give probable cause for the issuance of the warrant; that it does not meet the Aguilar - Spinelli test, and that it does not contain any mention about the reliability of the informant. (RP 6, 19-24) SEE EX. (1a), nothing other than Ellefson's statement that there were perhaps some motorcycle parts at the home of Shockey's brother Chuck; (RP 6, 24-25) & (RP 7, 1-2) SEE EX. (1a,b). That this was a general exploratory search; (RP 7, 4-5) SEE EX. (1b). The State said, according to the affidavit, the police already knew they were investigating a possible theft when they pulled over the vehicle Ellefson was driving; (RP 8, 22-25) & (RP 9, 1-3) SEE EX. (1c,d). The State goes on to say that when the police question Ellefson about the stolen motorcycle in his possession, Ellefson told them he got it from Joe Shockey; (RP 9, 13-17) SEE EX. (1d). When police question Ellefson about the missing gas tank, he said Shockey said the gas tank and other parts are at his brother Chuck's house next to Swiss Park in Bonney Lake; (RP 10, 5-7) SEE EX. (1e). The State further said the [officers] KNOW that Ellefson is trying to obtain the gas tank and [other parts] for the motorcycle (RP 10, 12-13) SEE EX. (1c), and they KNOW that Ellefson has been told by Shockey he has parts at his brother's house next to Swiss Park (RP 10, 14-13) SEE EX. (1e). The State further argues to the court that there is a nexus and there is probable cause

1 here. Specifically because they've got a gas tank that they
2 KNOW to be related to a stolen motorcycle; (RP 10, 22-25) SEE
3 EX. (1e).

4 The Court agreed with the State's interpretation and thought
5 there was probable cause to search Chuck's house next to Swiss
6 Park in Bonney Lake, because Ellefson said that was where he
7 was going for purposes of obtaining the missing parts when he
8 was stopped; (RP 13, 6-13) SEE EX. (1f).

9 The Washington Supreme Court said "under the Aguilar
10 - Spinelli two prong test an informant's tip can
11 furnish probable cause... if the state establishes
12 (1) the basis of the informant's information and
13 (2) the credibility of the informant or the relia-
14 bility of the informant's information.

15 STATE V. GADDY, No. 73719-3 (2004);
16 STATE V. COLE, 128 Wn.2d 262, 287, 906 P.2d 925
17 (1995).

18 AGUILAR V. TEXAS, 378 U.S. 108, 84 S.Ct. 1509,
19 12 L.Ed. 2d 723 (1964);
20 SPINELLI V. U.S., 393 U.S. 410, 89 S.Ct. 584, 21
22 L.Ed. 2d 637 (1969).

23 According to discovery Ellefson was wanted by the police for
24 the theft of a power saw that occurred on the night of May 23,
25 2004 SEE EX. (2a,b,c). On May 24, 2004 at 2120 hours officer
26 Lien of the Bonney Lake police dept. Conducted a stop on the
vehicle Ellefson was known to be in possession of. When officer
Lien confronted Ellefson about the power saw, Ellefson admitted
that he had stolen it. Ellefson then quickly told the officer
that he, Ellefson had a warrant for his arrest. The officer
confirmed, and placed Ellefson under arrest.

Given the weight of the evidence and witnesses against Ellefson,
as set out in the statement of facts and the complaint for search
warrant SEE EX. (2a.b.c) Ellefson had no choice but to admit
to the theft of the power saw and the arrest warrant; the
"obvious," and "lesser" offense, in an attempt to appear truthful
and sincere in a possible effort to exculpate himself from a
more serious crime that was about to come to light as a result

1 of the inevitable police inquiry as to the stolen motorcycle
2 in Ellefson's possession. SEE EX. (2a,b,c). When police ques-
3 tioned Elefson about the stolen motorcycle, Ellefson said he
4 bought it from Joe Shockey, and was just on his way to give
5 it back; SEE EX. (2c). Not to obtain the missing parts, as the
6 court seems to think (RP 13, 7-13) EX. (1f). When asked about
7 the missing parts Ellefson said Shockey said the parts were
8 at his brother Chuck's house next to Swiss Park in Bonney Lake.
9 SEE EX. (2c). Mayfield's home is at least one and a half (1½)
10 blocks away from Swiss Park, with several homes in between,
11 not next to Swiss Park.

12 **NOWHERE, DID THE STATE "PROVE" THE UNDERLYING CIRCUMSTANCES**
13 **OF THE BASIS OF ELLEFSON'S INFORMATION ARE TRUE.**

14 Therefore, the officers could NOT, as the state claims, as if
15 it were a proven fact, "KNOW" (1) if in fact Ellefson had
16 received the motorcycle from Shockey; (2) if in fact Ellefson
17 had been told by Shockey that parts were at his brother's house;
18 (3) if in fact Ellefson was really on his way to Mayfield's
19 house; (Ellefson has "**NEVER**" been to Mayfield's home) and
20 (4) if in fact the gas tank found in Shockey's van was really
21 stolen.

22 To satisfy both prongs of the Aguilar - Spinelli
23 test the state must **PROVE** the underlying circum-
24 stances which the trier of fact "may draw upon
25 to conclude the informant was credible and obtained
26 the information in a reliable manner".

STATE V. GADDY, supra, citing -
STATE V. VICKERS, 148 Wn.2d 91, 112, 59 P.3d 58
(2002).

Shockey is well known in the Bonney Lake area. Furthermore,
it is common knowledge that Shockey has a brother named Chuck
who lives in Bonney Lake, down the road from Swiss Park, Chuck
Mayfield (Mayfield) the defendant/appellant. There is a long-
standing expression that circulates in the Bonney Lake area
that states, Quote: "If I ever get into trouble, I'm blaming
it on Joe Shockey" end Quote. SEE EX. (3a,b,c,d).

//

1 Shockey denies Ellefson's false accusation's. SEE EX. (4).

2 One of the primary purposes for the courts ruling
3 in Spinelli was to ensure that the issuing magis-
4 trate is 'relying' on something more substantial
5 than a casual rumor circulating in the underworld
6 or an accusation based merely on an individual's
7 general reputation.

8 SPINELLI V. U.S., supra;

9 Even if the informant states how he obtained
10 the information which led him to conclude that
11 contraband is located in a certain building,
12 it is still necessary to establish the informant's
13 credibility.

14 STATE V. JACKSON, Wn.2d 432, 449, 688 P.2d 136
15 (1984);

16 STATE V. WOODALL, 100 Wn.2d 74, 76-78, 666 P.2d
17 364 (1983);

18 STATE V. FISHER, 96 Wn.2d 962, 965-66, 639 P.2d.
19 743 (1982);

20 STATE V. PARTIN, 88 Wn.2d 899, 903-04, 567 P.2d
21 1136 (1977).

22 A claim of first hand observation should not
23 compensate for the lack of any assurance that
24 the informant is credible. A liar could allege
25 first hand knowledge in great detail as easily
26 as could a truthful speaker.

STATE V. JACKSON, supra.

The informant's statements given in response
to police questioning about his own criminal
activity could be construed as an effort to excu-
pate himself and turn police interest away from
his own crimes.

TURNER V. KING COUNTY, 104 Wash. 2d 293, 705
P.2d 258 (1985).

It is not uncommon for an arrestee to initially
minimize his own involvement in a crime.

STATE V. O'CONNOR, 39 Wa. App. 113, 692 P.2d
208 (1984).

Ellefson was caught "red handed" with the stolen motor cycle.
Any reasonable mind could see that Ellefson was involved in
criminal activity, under extremely suspicious circumstances.

Ellefson was motivated by self - interest, in an effort to exculpate himself and turn police interest away from his own crimes.

Court's are reassured if the affidavit indicates the informant... is not involved in the criminal activity or motivated by self-interests.

STATE V. COLE, 128 wn.2d at 287 (1995).

Suspicious circumstances greatly diminished the presumption of reliability of the informant.

WASH. V. RODRIGUEZ, 53 wn. App. 571, 769,
P.2d 309 (1989);

STATE V. MICKLE, 53 wn. App. 39, 765 P.2d
331 (1988);

STATE V. FRANKLIN, 49 wn. App. 106, 107-08, 741 P.2d 83 (1987);

STATE V. NORTHNESS, 20 wn. App. 551, 556,
582 P.2d 546 (1978);

U.S. V. DARENSBOURG, 520 F.2d 985, 988
(5th cir. 1975).

Ellefson was named in the affidavit.

The court said... named citizen informants are presumed reliable.

STATE V. AASE, NO.28584-3-II at [47]
(2004);

WASH. V. RODRIGUEZ, 53 wn. App. 571, 769,
P.2d 309 (1989).

In some situations, this presumption of reliability for a named informant is diminished by the circumstances which may give rise to the suspicions that the named informant is acting out of self-interests.

WASH. V. RODRIGUEZ, 53 wn. App. 571, at 575, 769, P.2d 309 (1989).

Clearly Ellefson is not a citizen informant;

1 As the court observed in RODRIGUEZ,
2 identification of an informant is merely
3 a factor to be considered in determining
4 whether he is truly a citizen informant...

5 If the person giving the information to
6 the police is identified by name but it
7 appears that person was a participant in
8 the crime under investigation or has been
9 implicated in another crime and is acting
10 in the hope of gaining leniency then the
11 more strict rules regarding the showing
12 of veracity applicable to an informer
13 from the criminal milieu must be
14 followed.

15 WASH. V. RODRIGUEZ, 53 wn. App. 571, at
16 576, 769, P.2d 309 (1989).

17 A reasonable mind could see that Ellefson would then be categorized
18 a "criminal" informant.

19 "When a 'criminal' or 'professional'
20 informant provides information supporting
21 the warrant, evidence of his
22 trustworthiness must be included in the
23 warrant to establish his reliability."

24 STATE V. CHENOWETH, NO. 53027-5-I at [30
25 - 35] (2005);

STATE V. CLARK, 143 wn.2d 731, 748, 24
P.3d 1006 (2001).

26 According to discovery, at NO time did Ellefson express a concern
27 for his confidentiality or fear for his safety if he were named,
28 which would have supported the conclusion that his information
29 would be accurate.

30 The informant wished to remain anonymous
31 because he feared for his safety.

32 STATE V. PAYNE, 54 wash. App. At 245, 773
33 P.2d 122 (1989).

34 Informant's concerns with confidentiality
35 support the conclusion that his
36 information would be accurate.

37 STATE V. SMITH, 39 wn. App. 642, 694 P.2d
38 660 (1984).

1 Nowhere is it apparent from the record or the affidavit that
2 Ellefson is prudent or credible, and without motive to falsify.

3 **Ellefson has a conviction of a crime of dishonesty.**

4 SEE EXHIBIT: (5)

5 "To establish the reliability of a
6 citizen informant and fulfill the second
7 prong of the Aguilar-Spinelli test the
8 police must ascertain such background
9 facts as would support a reasonable
10 inference that he or she is 'prudent' or
11 'credible' and without motive to
12 falsify."

13 STATE V. AASE, NO. 28584-3-II (2004);

14 STATE V. CHATMON, 9 wn. App. 741, 748,
15 515 P.2d 530 (1973);

16 U.S. V. HARRIS, 403 U.S. 573 91 S. Ct.
17 2075, 29 L.Ed 2d 723 (1971).

18 Ellefson's credibility was never demonstrated by a showing of
19 information given in the past which has lead to arrest and
20 convictions.

21 To meet the Aguilar-Spinelli test the
22 credibility of the informant must be
23 "demonstrated"... Where it is almost
24 universally "Held" to be sufficient if
25 information has been given in the past
which has led to arrest and convictions.

STATE V. WOODALL, 100 wn.2d 74, 666 P.3d
364 (1983);

STATE V. FISHER, 96 wn.2d 962, 965, 639
P.2d 743 (1982);

STATE V. PARTIN, 88 wn.2d 899, 567 P.2d
1136 (1977);

McCRAV V. ILLINOIS, 386 U.S. 300, 18 L.Ed
2d 62, 87 S. Ct. 1056 (1967).

Ellefson has no track record of providing reliable information to
the police.

1 The most common way to satisfy the
2 veracity prong of Aguilar-Spinelli is to
3 evaluate the informants "Track Record"
i.e. , has he provided accurate
information to the police a number of
times in the past?

4 STATE V. JACKSON, 102 wn.2d 432, 449, 688
P.2d 136 (1984);
5 STATE V. FISHER, 96 wn.2d 962, 639 P.2d
743 (1982).

6 Furthermore, there is NO showing that Ellefson's accusations in
7 regard to the stolen motorcycle, were a declaration against his
8 own penal interests;

9 If the informant's track record is
10 inadequate, it may be possible to satisfy
the veracity prong by showing that the
11 accusation was a declaration against the
informant's "Penal Interest."

12 STATE V. JACKSON, 102 wn.2d 432, 449, 688
P.2d 136 (1984).
13 STATE V. BEAN, 89 wn.2d 467, 572 P.2d
1102 (1978).

14 Our courts have held that the declarant's
statements must, in a real and tangible
15 way, subject him to criminal liability.

16 STATE V. GEE, 52 wn. App. 357, 362, 760
P.2d 361 (1988);
17 U.S. V. HOYOS, 573 F.2d 1111, 1115, (9th
cir. 1978).

18 Furthermore, neither the record nor the affidavit reflect any sort
19 of leniency agreement that would support any additional incentive
20 for Ellefson to speak truthfully.

21
22 A leniency agreement may well provide an
additional incentive to speak truthfully.
23 STATE V. PATTERSON, 37 wn. App. 275, 278,
679 P.2d 416 (1984);
24
25

1 STATE V. JESSUP, 31 wn. App. 304, 318,
2 641 P.2d 485 (1982);
3 STATE V. HEET, wn. App. 849, 852, 644
4 P.2d 1187 (1982).

5 The amount and kind of information given by Ellefson was not
6 sufficient in "detail" in so far as to enhance his reliability, and
7 his knowledge of Shockey's activities, and the contents of
8 Mayfield's home. It was merely vague, commonly known facts, at best.

9 Ellefson has never been to Mayfield's residence,

10 it is common knowledge, that Shockey has a brother name
11 Chuck Mayfield who lives in Bonney Lake.

12 The amount and kind of detailed
13 information given by an informant may
14 also enhance his reliability.
15 STATE V. PATTERSON, 37 wn. App. 275, 278,
16 679 P.2d 416 (1984);
17 STATE V. JESSUP, 31 wn. App. 304, 318,
18 641 P.2d 485 (1982);
19 STATE V. HEET, wn. App. 849, 852, 644
20 P.2d 1187 (1982).

21 The informant described with minute
22 particularity Draper's clothes upon his
23 arrival to Denver station with three
24 ounces of heroin on one of two specified
25 mornings, which was corroborated and
 verified by independent police work. It
 was then apparent the informant had not
 been fabricating his report.
 DRAPER V. U.S., 358 U.S. 307, 79 S. Ct.
 329 3 L.Ed 2d 327 (1959).

26 According to discovery, Ellefson was caught with the stolen motor
27 cycle on the night of May 23, 2004. according to discovery there
28 was NO independent police investigation of Mayfield's residence,

1 The officers involved in the incidents including the affiant, Alfano
2 said they were familiar with the residence located next to the
3 Swiss sportsmans club. Officer Alfano states that he had seen
4 Shockey at the residence on several occasions; see ex. (2d)

5
6 In SPINELLI, AT 587-88, supra, the F.B.I.

7 had kept track of Spinelli on five days...

8 The court said Spinelle's travels to
9 and from the apartment building [in
question] could hardly be taken as [unlaw-
ful activity]...

10 Finally, the allegation that Spinelli
11 was "known" to the affiant and other
federal and local law enforcement officers
12 as [being involved in unlawful activity]..
is but a bald and unilluminating assertion
of suspicion that is entitled to no weight
in apprasing the magistrate's decision.
13 NATHANSON V. UNITED STATES, 290 U.S.
41, 54 S.Ct. 11, 12, 78 L.Ed. 159 (1933)
14 SPINELLI, at 587-88, supra.

15 If the informant's tip fails under either
or both of the two prong test of Aguilar-
16 Spinelli, probable cause may yet be
established by independent police investi-
17 gatory work that should corroborate the
informants tip to such an extent that
it supports the missing elements of the
18 Aguilar - Spinelli test.
STATE V. JACKSON, 102 wn.2d 432, 449,
19 688 P.2d 136 (1984).

20 Any information used by the police to
corroborate an informant's tip must point
21 to actual criminal activities alleged
by the informant.
22 STATE V. JACKSON, supra.

23 The information used by the police to corroborate the tip given
24 by Ellefson is nothing more than harmless details.

25 Corroboration of public or innocuous facts
only show that the informer has

1 some familiarity with the suspect's
2 affairs.
3 STATE V. JACKSON, 102 wn.2d 432, 449, 688
4 P.2d 136 (1984).

5 Merely verifying innocuous details,
6 commonly known facts or easily
7 predictable events should not suffice to
8 remedy a deficiency in either the basis
9 of knowledge or veracity prong.
10 STATE V. JACKSON, 102 wn.2d 432, 449, 688
11 P.2d 136 (1984).
12 U.S. V. MONTGOMERY, 554 F.2d 754, 755-58,
13 (5th cir. 1977);
14 U.S. V. CANIESO, 470 F.2d 1224, 1231, (2nd
15 cir. 1972);
16 SPINELLE V. U.S., 393 U.S. at 417, 89 S.
17 Ct. 584 21 L.Ed 2d 637 (1969).

18 The government may not attempt to prove a
19 defendant's guilt by showing that he
20 associates with unsavory characters.
21 BEATHARD V. JOHNSON, 177 F.3d 340 (5th
22 cir. 1999).

23 The gas tank found in Shockey's van was not proved to belong
24 to the stolen motor cycle inquestion. Or, if it was even stolen.
25 Nor, were any parts from the motor cycle, or in fact any stolen
items produced by the illegal search of Mayfield's residence.

26 The information given by the informant
27 was not verified by the search... This lack
28 of verification... might have negated the
29 reliability prong of Aguilar-Spinelli...
30 The evidence should have been suppressed.
31 "REVERSED,"
32 STATE V. SACKETT, NO. #31971-3-II (2005).

33 Information by an informant may not be
34 used in determining the presence of
35 probable cause... in the absence of a
36 showing of the basis for the informant's
37 knowledge and the basis for believing
38 that the informant is credible or his
39 information reliable.
40 STATE V. SMITH, 102 wn.2d 449, 688 P.2d
41 146 (1984);
42 STATE V. SIELER, 95 wn.2d 43, 621 1272
43 (1980).

1 In summary, we have the informant Ellefson, who has a conviction
2 of a crime of dishonesty. Caught red-handed with the stolen
3 motorcycle, and appeared to be more than just a participant
4 in the crime; with a strong motivation by self-interest to falsi-
5 fy; in a possible effort to exculpate himself, and turn police
6 interest away from his own crime (of being in possession of
7 a stolen motorcycle). He made NO statement against his own penal
8 interest in regards to the stolen motorcycle; corroborated by
9 innocuous details, commonly known facts, or predictable events;
10 based on NO independent police investigation; with NO showing
11 of any track-record of the informant providing reliable informa-
12 tion to the police in the past leading to arrest and conviction;
13 or any showing of being a prudent citizen. The informant express-
14 ed NO concern for his safety if he were named. There was NO
leniency agreement to bind his truthfulness. And finally, nowhere
in the affidavit does the affiant - officers claim, or support
that their informant was "'credible' or his information 'relia-
ble.'"

15 In Aguilar, one of the reasons the court
16 held the affidavit inadequate was, the
17 affiant - officers did not attempt to
18 support their claim that their informant
was "'credible' or his information relia-
ble.'"

SPINELLI, at 587; supra.

19 Because Ellefson is NOT credible, or his information reliable,
20 and the state did NOT "PROVE" whether or not an actual conection
21 did in fact even exist between Ellefson and Shockey, the trial
22 court erred when it did not suppress the evidence as the product
23 of an illegal search of Mayfield's home, in violation of the fourth
and fourteenth amendments of the U.S. Const. and Art. 1 § 7 of
the Wash. State Const., guarantee against unreasonable searches.

24 Conclusion:

25 Wherefore, in light of the above stated reasons, Mayfield respect-
26 fully requests this honorable court to reverse the lower court's
order and suppress the evidence obtained as the result of both

1 search warrants. Remand the case for a new evidentiary hearing
2 and/or a new trial with the evidence suppressed or any other equit-
3 able relief as may seem just to the court.

4 (2). INEFFECTIVE ASSISTANCE OF COUNSEL:

5 The provisions of the sixth amendment of the U.S. Const. and Art.
6 1 § 22 of the Wash. State Const. Guarantee Effective Assistance
7 of Counsel to an Accused.

8 STATE V. HENDRICKSON, 129 Wn.2d 61, 75, 917 P.2d
9 563 (1996);
10 STRICKLAND V. WASHINGTON, 466 U.S. 668, 689, 104
11 S.Ct. 2052, 80 L.Ed 2d 674 (1984).

12 (a). Mayfield's counsel was ineffective when even though at
13 Mayfield's suppression hearing counsel argued that the affidavit
14 did not contain any mention of the reliability of the informant;
15 and therefore does not meet the Aguilar - Spinelli test;(RP 6,19-24)
16 SEE EX.(1a).

17 Counsel was deficient when counsel failed to produce exculpatory
18 information to show that Ellefson could not be considered credible
19 or his information reliable because he has a past conviction of
20 "Possession of Stolen Property" "FIRST DEGREE" SEE EX. (5); a
21 "CRIME OF DISHONESTY" under evidence rule § 609.4 and STATE V.
22 McKINSEY, 116 Wn.2d 911, 810 P.2d 907 (1991).

23 Mayfield suffered actual prejudice when, had counsel produced
24 this material evidence for the court's consideration it clearly
25 could have served as a deciding factor for the court to determine
26 that Ellefson was NOT credible and his information NOT reliable
and therefore, the outcome of Mayfield's suppression hearing would
most probably have been different.

Wherefore, Mayfield respectfully requests the court to dismiss
Mayfield's conviction and/or reverse and remand Mayfield for a
new trial with the evidence suppressed that was obtained as a
result of the search warrants obtained from Ellefson's statement.

1 b). Counsel failed to request a FRANKS hearing to make a prelimin-
2 ary showing that the affiant, detective Alfano, knowingly and
3 intentionally or with reckless disregard for the truth made mater-
4 ial omissions in the affidavit for probable cause.

5 STATE V. FIELDS, No. 31403-7-II (2005);
6 FRANKS V. DELAWARE, 438 U.S. 154, 98 S.Ct. 2674,
7 57 L.Ed.2d 667 (1978).

8 In reviewing a magistrates "probable cause" determina-
9 tion, a court may not consider information that was
10 not before the magistrate unless such information
11 was material or recklessly omitted from the affidavit.
12 Is material if necessary for probable cause. Reckless
13 is established by showing that the affiant doubted
14 or should have doubted the veracity of the informant
15 or the accuracy of his information.

16 STATE V. O'CONNOR, 39 Wn. App. 113, 692 P.2d 208(1984)

17 The affiant, detective Alfano, should have doubted the informant
18 Ellefson's veracity because a simple background check of Ellefson
19 reveals that he has a past conviction of possession of stolen
20 property "First degree"; SEE EX. (5).

21 A "CRIME OF DISHONESTY" under evidence rule § 609.4, and;
22 STATE V. MCKINSEY, 116 Wn.2d 911, 810 P.2d 907 (1991).

23 Mayfield's counsel was deficient when counsel failed to request
24 a Franks hearing to make a preliminary showing that the affiant,
25 detective Alfano, knowingly and intentionally or with reckless
26 disregard for the truth made material omissions in the affidavit
for probable cause to obtain a search warrant for the residence
and property in the name of Rose Waschell, Mayfield's residence.
Mayfield suffered actual prejudice when, had counsel not failed
to bring the states case to an adversarial testing through FRANKS
to show that the affiant should have doubted Ellefson's veracity
through a simple records check, and that Ellefson's crime of dis-
honesty is exculpatory information and should not have been omitted
from the courts consideration. Such material evidence would clearly
have served as a deciding factor for the issuing Magistrate to
determine that the affidavit was insufficient for probable cause,
and probably would NOT have issued the search warrant.

1 Wherefore, Mayfield requests the court to reverse and remand
2 Mayfield for a FRANKS hearing. Or, any other equitable action the
3 court deems appropriate.

4 c). At trial, counsel failed to object to violations against
5 the 5th amendment of the United States constitution when the state
6 compelled Mayfield to sign an agreement to stipulate to his prior
7 felonies in order to take the witness stand to testify on behalf of
8 his own defense, without any warning to Mayfield that he was
9 exposing himself to a realistic threat of self-incrimination and of
10 the dangerous consequences in relation to the charge of unlawful
11 possession of a firearm.

12 The 5th amendment analysis generally
13 entails two considerations: whether a
14 defendants statement exposed him to a
15 "Realistic threat of self-incrimination"
16 in a subsequent proceeding and whether
17 the state compelled the defendant's
18 incriminating statements
19 STATE V. KING, 925 P.2d 606, 130 wash 2d
20 517 (1996).

21 Unknown to Mayfield at the time, Prior felonies are a required
22 primary element, necessary for a guilty verdict of "unlawful
23 possession of a firearm" in the state of Washington. As a result,
24 Mayfield was found guilty of "unlawful Possession of a Firearm."

25 A person... is guilty of the crime of
unlawful possession of a firearm in the
second degree... if the person owns, has in
his or her possession, or has in his or
her control any firearm:
After having previously been convicted in
this state or elsewhere of any felony...
R.C.W. 9.41.040 (1) (a), (2) (a).

1 Mayfield's counsel's performance was deficient and fell below a
2 minimum objective standard of reasonable attorney conduct when,
3 counsel failed to argue against 5th amendments of the United States
4 constitution's protection against self-incrimination and did not
5 warn Mayfield that he was exposing himself to a realistic threat of
6 self-incrimination by allowing Mayfield to stipulate to having prior
7 felonies on his criminal history record in order to take the stand
8 on his own behalf. Such an admission, for all intent and purpose, is
9 in actuality pleading guilty to one (1)-prong of a two (2)-prong
10 test of committing a crime of **unlawful possession of a firearm.**

11 Mayfield suffered prejudice where it is reasonably probable that but
12 for Mayfield's counsel's unprofessional errors, Mayfield would not
13 have taken the stand to testify on his own behalf, and would not
14 have been compelled to stipulate to having prior felonies on his
15 record. As a result, it would have been impossible for the jury to
16 find Mayfield guilty of "unlawful possession of a firearm."

17 Conclusion:

18 In light of the above, Mayfield respectfully requests the court to
19 reverse the lower court, and remand Mayfield for a new trial. Or any
20 other equitable relief as may seem just to the court.

21 d). At trial, counsel was ineffective when counsel failed to object
22 to two (2) omitted elements in the jury instructions essential
23 to an affirmative defense provided under R.C.W. § 9A.76.170(2)
24 denying Mayfield of his constitutional right to a fair trial.

25 R.C.W. § 9A.76.170 (2)

It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering, and that

1 the person did not contribute to the creation
2 of such circumstances in reckless disregard
3 of the requirement to appear or surrender, and
4 that the person appeared or surrendered as soon
5 as such circumstance ceased to exist.

6 The two (2) essential elements omitted in Mayfield's jury instruc-
7 tions were, "that the person did not contribute to the creation
8 of such circumstances in reckless disregard of the requirement
9 to appear or surrender, and that the person appeared or surrender-
10 ed as soon as such circumstances ceased to exist; SEE EX. (7)

11 The court said the jury, could infer from
12 Espey's flight from the sheriff, he knowingly
13 failed to appear.

14 STATE V. ESPEY, No. #22561-II (1999).

15 A reasonable jury could also infer that even if Espey's circum-
16 stances for failing to appear were in fact uncontrollable, by
17 law Espey failed to establish an affirmative defense to bail
18 jumping by a preponderance of the evidence when he did not appear
19 or surrender after such circumstances ceased to exist in accord-
20 ance with the provisions under the affirmative defense portion
21 of the bail jumping statute.

22 However, in Mayfield's case, any reasonable person could see
23 by a preponderance of the evidence that, first; Mayfield's circum-
24 stances were in fact uncontrollable. And, second; from May-
25 field's actions such as appearing to about 45 out of 48 scheduled
26 court proceedings over the span of a year; SEE EX. (8a,b,c,d)
traveling two hundred miles round trip between Ellensburg, and
Tacoma, Wa. In addition to Mayfield immediately "appeared" or
"surrendered" as soon as his uncontrollable circumstances allowed,
or ceased to exist, when he immediately made contact with his
attorney and bail bonding co. and upon their instructions immedi-
ately scheduled a quash hearing and appeared as required;
SEE EX. (8a,e,f)

That Mayfield in fact and by law did NOT contribute to the crea-
tion of such circumstances in reckless disregard of the require-
ment to appear. On the contrary Mayfield held his obligations
to the court in high regard.

1 The erroneous jury instructions at Mayfield's trial precluded
2 the jury from making a finding on the actual elements of May-
3 field's defense. Because the omission of two (2) essential ele-
4 ments to an affirmative defense (such as provided in the bail
5 jumping statute) deterred the jury from considering any evidence
6 related to the predicate facts and directly foreclosed independent
7 jury consideration of whether the facts in Mayfield's case (such
8 as when he appeared or surrendered as soon as circumstances all-
9 owed) established certain elements of an affirmative defense
10 by a preponderance of the evidence. A prejudice further compounded
11 when the court denied the testimony of Mayfield's bail bond agent.
12 Whom in expert testimony would have corroborated Mayfield's comp-
13 liance to the omitted elements in question; resulting in
14 cumulative errors of constitutional magnitude and a miscarriage
15 of justice that directly contributed to the verdict obtained.

13 The erroneous jury instructions precluded
14 the jury from making a finding on the
15 actual element of the offense. An omission
16 deters the jury from considering any evid-
17 ence other than that related to the predi-
18 cate facts and directly forecloses indepen-
19 dent jury consideration of whether the
20 facts proved established certain elements
21 of the offense.

18 NEDER V. U.S., 527 U.S. 1, 119 S.Ct. 1827,
19 144 L.Ed.2d 35 (1999).

19 CARELLA V. CALIFORNIA, 491 U.S. 263 at
20 266, (1989).

20 Even though Mayfield's jury instructions omitted elements from
21 the affirmative defense, the conclusion of fact and law set out
22 in NEDER when the jury instructions omitted an element from the
23 offense; should apply to Mayfield.

23 Mayfield does not dispute that facts proved, establishes certain
24 elements of the offense.

1 Mayfield's counsel was deficient when counsel failed to object
2 to the two omitted elements essential to an affirmative deffense
3 to bail jumping in the jury instructions and to request or pro-
4 pose a jury instruction with the omitted elements added, as
5 provided under R.C.W. §9A.76.170(2).

6 As a result, Mayfield suffered actual prejudice when, had the
7 jury been instructed to consider other facts such as provided
8 in the affirmative defense portion of the bail jumping statute
9 that encompass whether a persons regard to the requirement of
10 appearing and the actions of a person after that person has
11 failed to appear establish an affirmative defense. By a prepond-
12 erance of the evidence any reasonable jury could see that in
13 fact and by law Mayfield had established an affirmative defense
14 to bail jumping.

15 Conclusion:

16 Mayfield respectfully requests this court to reverse the lower
17 court and remand Mayfield for a new trial, adding the omitted
18 elements to the jury instructions essential to guarantee Mayfield
19 a fair trial. Or, any other equitable relief that may deem appro-
20 priate to the court.

1 e). On August 26, 2004 at a continuance hearing, either intention-
2 ally or recklessly, Mayfield's attorney stated that he, Mayfield,
3 was not required to appear at the September 9, 2004 proceedings.
4 Mayfield's sister Mrs. Theresa Glidden was a witness to this
5 SEE EX. (9)

6 Mayfield had a constitutional right of reasonable expectations
7 to rely on his attorney, and to believe that in following the
8 advice of his attorney would be appropriate conduct.

9 Under the provisions of the sixth amendment
10 of the United States constitution and article
11 1 § 22 of the Washington State constitution,
12 guarantee effective assistance of counsel
13 to an accused.

14 STATE V. HENDRICKSON, 129 wn.2d 61, 75, 917
15 P.2d 563 (1996);

16 STRICKLAND V. WASHINGTON, 466 U.S. 668, 689,
17 104 S.Ct. 2052, 80 L.Ed2d 674 (1984).

18 Although not an act of God or life threatening, following the
19 advice of counsel did directly relate to Mayfield's inability
20 to attend, because knowledge is a required element to the offense
21 of bail jumping, and by relying on his counsel's advice, as the
22 law plainly allows, Mayfield did not know he was required to
23 attend/appear.

24 Any person having been released by court
25 order or admitted to bail with KNOWLEDGE
26 of the requirement of a subsequent personal
appearance before any court of this state;
... And who fails to appear... is guilty
of bail jumping.

R.C.W. § 9A.76.170(1); (in part).

27 Next, Mayfield's home³ is located in the foot hills of the Wenatchee
28 National forest at a much higher elevation and therefore subjected
29 to severe weather conditions. On the morning of November 3, 2004
30 Mayfield's car was out of commission due to heavy snow conditions;
31 SEE EX. (10), also see RP 317 318.

32 Mayfield drives a Datson 280z sport-car. It is not designed for
33 driving in heavy snow conditions.

³Mayfield's address is
431 UPPER GREEN CANYON
ELLENSBURG, WA. 98926

1 In both cases Mayfield was in compliance with the affirmative
2 defense provided under R.C.W. § 9A.76.170 (2) when the circum-
3 stances which prevented him from appearing were in fact and by
4 law uncontrollable.

5 The defense provided in the statute relates to
6 the defendant's inability to attend...
7 STATE V. FREDRICK, 123 Wn. App. 347, at 353, 97
8 P.3d 47 (2004).

9 Combined with Mayfield's efforts to adhere to the prescribed
10 defense set out in that statute; when he appeared or surrendered
11 as soon as such circumstances ceased to exist. SEE EX. (8a,e,f).

12 It is an affirmative defense to a prosecution
13 under this section that uncontrollable circum-
14 stances prevented the person from appearing or
15 surrendering and that the person did not contri-
16 bute to the creation of such circumstances in
17 reckless disregard of the requirement to appear
18 or surrender, and that the person appeared or
19 surrendered as soon as such circumstance ceased
20 to exist.

21 R.C.W. § 9A.76.170 (2) BAIL JUMPING.

22 For the government to punish a person because
23 he had done what the law plainly allows him to
24 do is a due process violation of the most basic
25 sort.

26 U.S. V. ANDERS, 211 F.3d 711, (2d cir. 2000).

According to the provisions of R.C.W. § 9A.04.030 (1), Mayfield
did NOT commit a crime of bail jumping in this state. On the
contrary, Mayfield was in compliance with the law.

Therefore, the court had NO jurisdiction to punish Mayfield,
and exceeded its statutory authority in doing so.

R.C.W. § 9A.04.030 (1) establishes personal
jurisdiction over individuals who commit crimes
in this state.

STATE V. B.P.M., No.43144-1-I at [35], (1999).

The following persons are liable to punishment
(1) A person who commits in the state any crime,
whole or in part...

R.C.W. § 9A.04.030 (1).

1 If petitioner's sentence is not authorized by
2 statute, failure to correct the defect could
3 result in denial of petitioners due process
4 rights.

5 HILL V. ESTELLE, 653 F.2d 202, 204, (5th cir.)

6 citing;

7 HICKS V. OKLAHOMA, 447 U.S. 343, 65 L.Ed2d 175
8 100 S.Ct. 2227 (1980).

9 The error is grounds for reversing only the
10 erroneous portion of the sentence imposed.

11 STATE V. ELITS, 94 Wn.2d 496, 617 P.2d 993
12 (1980).

13 Mayfield's earlier counsel was deficient when counsel informed
14 Mayfield that he, Mayfield, was NOT required to appear on SEP.
15 9, 2004. Mayfield's trial counsel was deficient when counsel
16 failed to object to the court's abuse of discretion, lack of
17 jurisdiction and exceeding its statutory authority to punish
18 Mayfield because he was in complete compliance with the affirma-
19 tive defense portion of the bail jumping statute, and therefore
20 no longer liable to punish as a result of not only the ineffective
21 but, reckless assistance of Mayfield's earlier counsel that direc-
22 tly contributed to Mayfield's inability to appear. In addition
23 to Mayfield's right of reasonable expectations to rely on his
24 attorney's advice under the guarantee of the sixth amendment
25 of the U.S. const. and had only done what the law plainly allowed.
26 In addition to when Mayfield was snowed in, and in both cases
when Mayfield followed the proper channels prescribed by law
as the "only" means of any sort of a remedy as directed or set
out in R.C.W. § 9A.76.170(2).

Prejudice occurred when, but for the deficient performance there
is a reasonable probability that if Mayfield's earlier counsel
would NOT have told Mayfield that he was NOT required to appear
on Sep. 9, 2004, Mayfield would have appeared and would NOT have
been charged with bail jumping.

1 Further prejudice occurred when, but for the deficient performance
2 of Mayfield's trial counsel there is a reasonable probability
3 that if counsel would have argued that because Mayfield relied
4 on his earlier counsel for accurate and proper guidance in regards
5 to his required court appearance, and that in doing so had done
6 what the law had plainly allowed him to do under the provisions
7 of the sixth amendment of the United States constitution and
8 article 1 § 22 of the Washington constitution; combined with
9 Mayfield's efforts to comply with the affirmative defense portion
10 of the statute. Satisfying all requirements to rise to the level
11 of an affirmative defense to bail jumping. In addition to if
12 counsel would have made the court aware that the court abused
13 its discretion, exceeded its statutory authority, and lacked
14 jurisdiction to punish Mayfield under R.C.W. § 9A.04.030 (1).
15 That in doing so would violate Mayfield's due process and equal
16 protection rights under the fourteenth amendment of the United
17 States constitution. In all probability the court would have
18 had no choice, but to adhere to the laws of the state and not
19 prosecute Mayfield for failing to appear in court on Sep. 9,
20 2004 and Nov. 3, 2004 because his circumstances for failing to
21 appear were in fact and by law "uncontrollable."

22 Conclusion:

23 Wherefore, in light of the above, Mayfield respectfully requests
24 this court to dismiss Mayfield's two (2) counts of bail jumping
25 and reverse the trial court's erroneous portion of Mayfield's
26 sentence and remand for resentencing or any other equitable relief
the court may deem appropriate.

1 f). Counsel failed to object to the trial courts abuse of discre-
2 tion or misapplication of the law or both, at sentencing by arbit-
3 rarily counting separately Mayfield's two counts of bail jumping
4 that he received for simultaneously failing to appear on SEP. 9, 2004
5 for both cause NO's. receiving two additional current offender
6 points; and again on NOV. 3, 2004, receiving another two points
7 for a total of four additional current offender points, with out
8 engaging in a same criminal conduct analysis to reflect a total
9 of only two current offender points for sentencing purposes.
10 SEE EX. (11a,b,c,d)

11 If the court arbitrarily counted the
12 convictions separately, it abused its
13 discretion.

14 STATE V. HADDOCK, 141 wn.2d 103; 3P.3d
15 733; (2000).

16 RAVON V. CITY OF SEATTLE, 135 wn.2d 278,
17 284, 957 P.2d 621 (1998).

18 R.C.W. 9.94A.589 (1) (a) provides that
19 two or more crimes encompass the same
20 criminal conduct for sentencing purposes
21 if the crimes (1) involve the same
22 criminal intent, (2) are committed at the
23 same time and place, and (3) involve the
24 same victim.

25 (1) Same criminal intent;

Both of Mayfield's bail jumping convictions for each date are liter-
ally a result of one overall purpose, identical, one and the same
offense, based on a single act of failing to appear in court for
each date, that together with Mayfield efforts to comply with the
affirmative defense portion of the bail jumping statute when he
appeared or surrendered as soon as his uncontrollable circumstances
CEASED TO EXIST: SEE EX. (8a,c,e,f,g,i). Mayfield's criminal intent
could be inferred as unintentional and objectively viewed as the
same intent for each offense.

1 The fact that the two (2) charges involved different cause numbers
2 should not by itself evidence any difference in intent.

3 "The fact that the two charges involved
4 different drugs does not by itself
5 evidence any difference in intent."
6 STATE V. GARZA-VILLAREAL, 123 wn.2d 42,
7 at 49, 846 P.2d 1378 (1993).

8 (2) Same time and place:

9 Mayfield's concurrent convictions involve two (2) simultaneous
10 counts of bail jumping for more than one cause number on the same
11 date - September 9, 2004; at the same time - 8:30 a.m.; at the
12 same place - Superior Court, 930 Tacoma Ave. S. TACOMA, WA. 98402
13 SEE EX. (8a,c). Mayfield received two (2) more simultaneous counts
14 of bail jumping for failing to appear on November 3, 2004 at 8:30a.m.
15 at same as above address; SEE EX. (8a,c).

16 Concurrent counts involving simultaneous
17 simple possession of more than one
18 controlled substance encompass the same
19 criminal conduct for sentencing purposes.
20 STATE V. VIKE, 125 wn.2d 407, at 412, 885
21 P.2d 824 (1994).

22 (3) Same victim;

23 Whether the victim in this case is the general public or Mayfield's
24 bail bonding company, with whom Mayfield remained in good standing
25 at all times. Or, given the nature of the offense, and the
propensity of the offense to be a strict liability crime, the victim
could be Mayfield. Mayfield sustained financial injury i.e., court
fees incurred, additional raise in bail, an additional two thousand
dollars (\$2,000.00) in fees with the bail bonding company;
SEE EXHIBIT: (12)

Definition of "victim" according to the
sentencing reform act of 1981 (SRA): "Any

1 person who has sustained emotional, psycho-
2 logical, physical or financial injury
3 to person or property as a direct result
of the crime charged."
R.C.W. § 9.94A.030.(40).

4 Mayfield has also suffered additional prison time as a direct
5 result of bail jumping convictions. A reasonable mind could
6 see that in this case the victim is the same; "Mayfield."

7 Counsel was deficient when failing to object to the court's
8 arbitrarily counting Mayfield's two counts of bail jumps for
9 simultaneously failing to appear for both cause No's. on Sep.
10 9, 2004 at 8:30 a.m. when Mayfield received two point, and
11 again on Nov. 3, 2004 for two more points for sentencing purposes
12 Actual prejudice occurred when had the court engaged in a same
13 criminal conduct analysis under R.C.W. § 9.94A.589 (1)(a) the
14 court would have found that Mayfield satisfied all three required
15 elements to the black letter of the law needed to encompass
16 same criminal conduct for sentencing purposes and under those
17 provisions Mayfield would probably only received a total of
18 two additional current offense points rather than four for sen-
19 tencing purposes.

20 Conclusion:

21 Wherefore, in light of the above stated reasons Mayfield respect-
22 fully requests that his two (2) counts of bail jumping for each
23 cause number on the same dates encompass the same criminal con-
24 duct. So that Mayfield receives only one additional current
25 offense point for each cause number rather than two points for
26 each incident for sentencing purposes, and the trial court re-
versed and Mayfield be remanded for resentencing, or any other
equitable relief the court deems appropriate.

1 (3). Abuse of discretion/Same criminal conduct:

2 The trial court abused its discretion or misapplied the law or
3 both by arbitrarily counting separately Mayfield's four (4) counts
4 of bail jumping, that Mayfield received for failing to appear
5 in court on September 9, 2004 for both cause numbers simultane-
6 ously; SEE EX. (8a,c), and again on November 3, 2004; SEE EX.(8a,c)
7 with out engaging in a same criminal conduct analysis.

8 At sentencing, Mayfield's counsel pointed out to the court, and
9 the State also recognized in part, that several counts of Mayfield's
10 bail jumps doubled because hearings were set on the same day
11 [simultaneously] for each cause number. The court arbitrarily
12 counted the convictions separately; SEE EX. (11a,b,c,d).

13
14 If the court arbitrarily counted the convictions
15 separately it abused its discretion.

16 STATE V. HADDOCK, 141 Wn.2d 103; 3 P.3d 733; (2000)
17 RAVON V. CITY OF SEATTLE, 135 Wn.2d 278, 284,
18 957 P.2d 621 (1998).

19 R.C.W. § 9.94A.589 (1)(a), Provides that two or
20 more crimes encompass the same criminal conduct
21 for sentencing purposes if the crimes (1) involve
22 the same criminal intent, (2) are committed at
23 the same time and place, and (3) involve the same
24 victim.

25 Wherefore,

26 In light of Same argument as in above, in Ground (2)(F) Same Criminal
27 Conduct, Mayfield requests the court to reverse and remand
28 Mayfield for a same criminal conduct analysis and resentenced
29 with the correct offender score to reflect Mayfield's four counts
30 of bail jumping to encompass same criminal conduct for only
31 two counts of bail jumping for sentencing purposes.

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(4),(5). Abuse of discretion:-
Lack of jurisdiction:

a). Because the act of failing to appear is the essential beginning element of the warrant for failing to appear; to quash a warrant for failing to appear is to deprive it of all force and operation from its beginning or future transaction, in effect quashing the underlying offense, i.e., "failure to appear."

The prosecutor quashed several warrants for Davis in exchange for information.
STATE V. DAVIS, 93 wash. App. 648, 970 P.2d 336 (1999).

The implication here is that quashing the warrants in effect quashed Davis' underlying offenses. i.e., the beginning essential elements of the warrants. Depriving the obligation of Davis for the underlying offense of all force and operation, from the beginning or future transaction.

QUASH: To annul; to annul a judgment or judicial proceeding is to deprive it of all force and operation either ab initio (from the beginning) or prospectively as to future transaction.
BLACKS LAW DICTIONARY

Mayfield failed to appear at 8:30 a.m. on Oct. 27, 2004. The court issued a warrant for Mayfield. Mayfield appeared in court that afternoon at 1:30 p.m. An administrative quash hearing was held and the matter was resolved. SEE EX. (8a).

As a result, Mayfield was NOT charged with bail jumping.

36

1 Here Mayfield's court recognized the full force and finality of the
2 quash proceedings. As a result Mayfield was not charged with bail
3 jumping.

4 Each case of Mayfield's bail jumping convictions were identical in
5 fact and in law as the Oct. 27, 2004 case.

6 (Mayfield failed to appear, a warrant was issued, Mayfield appeared
7 or surrendered as soon as circumstances allowed or ceased to exist.
8 The matter was resolved pursuant to a quash proceeding,

9 Was the difference of a few hours the deciding factor in determining
10 whether Mayfield be charged with bail jumping? Such as he was
11 on September 9, 2004 when he scheduled a quash hearing before 5:00
12 p.m. the same day that he failed to appear? SEE EX. (8a,c,e,f,g,h,i)
13 Allowances must be made for clerks to schedule. Or, even on Nov.
14 3, 2004, when Mayfield's circumstances did not allow him to appear
15 for a few days?

16 The statute does not mention as an affirmative defense any sort of
17 time bar, with the exception of the phrase "as soon as."
18 rather vague.

19 Based on the outcome of Mayfield's failure to appear on Oct. 27,
20 2004, when in this particular case the court recognized the finality
21 and force of the quash proceedings, the court should adhere to that
22 well established jurisprudence for each failure to appear that
23 Mayfield was ultimately charged and convicted for bail jumping.

24 **The court lacked** jurisdiction and exceed its statutory authority
25 to punish Mayfield for bail jumping, . because - the essential
element and underlying offense of failure to appear had been

1 deprived of all force and operation as to future transaction i.e.,
2 where there is no longer a crime as a result of the quash
3 proceedings, making Mayfield no longer liable .

4 "There can be no restitution without a
5 conviction."

6 IN RE GARDNER, 94 wn.2d 504, at 507, 617
7 P.2d 1001 (1980).

8 The following persons are liable to
9 punishment (1) A person who commits in
10 the state any crime, whole or in part...
11 R.C.W. 9A.04.030 (1).

12 If petitioner's sentence is not
13 authorized by statute, failure to correct
14 the defect could result in denial of
15 petitioners due process rights.

16 HILL V. ESTELLE, 653 F.2d 202, 204, (5th
17 cir.) citing;
18 HICKS V. OKLAHOMA, 447 U.S. 343, 65 L.Ed2
19 175 100 S. Ct. 2227 (1980).

20 Since the sentencing court exceeded its
21 statutory it is necessary to consider the
22 appropriate remedy. It is well
23 established that the imposition of an
24 unauthorized sentence does not require
25 vacation of the entire judgment or
granting of a new trial.

IN RE CARLE, 93 wn.2d 31, 604 P.2d 1293
(1980).

The error is grounds for reversing only
the erroneous portion of the sentence
imposed.

STATE V. EILTS, 94 wn.2d 496, 617 P.2d
993 (1980).

The court lacked jurisdiction and exceeded its statutory authority
to punish Mayfield for bail jumping because he was no longer liable
to punishment as a result of the quash proceedings. To do so would
violate Mayfield's due process and equal protection rights guaran-
teed under the fourteenth amendment of the U.S. const.

This is clearly prosecutor misconduct to pursue and charge Mayfield
multiple times for bail jumping when Mayfield followed ever proper
channel prescribed by law, whether Mayfield was either late or
uncontrollably failed to appear.

1 Conclusion:

2 Wherefore, in light of the above, Mayfield respectfully requests
3 the court to dismiss Mayfield's two (2) counts of bail jumping
4 convictions and reverse the trial court by reversing the erroneous
5 portion of Mayfield's sentence and remand for resentencing, or
6 any other equitable relief the court deems appropriate.

7 (6). Abuse of discretion and Misapplication of law:

8 a)1),2),3). Mayfield failed to appear for court on June 2, 2004
9 at 8:30 a.m. for cause No. #33734-7-II. Also on Sep. 9, 2004
10 at 8:30 a.m. simultaneously for cause No's. #33734-7-II and cause
11 No. # 33740-1-II, and again on Nov. 3, 2004 at 8:30 a.m. failed
12 to appear simultaneously for the same as above two cause numbers,
13 SEE EX. (8a,c)

14 At Mayfield's sentencing, the court arbitrarily counted Mayfield's
15 five counts of convictions for bail jumping separately without
16 engaging in a same criminal conduct analysis. Resulting in a
17 much higher sentencing range for Mayfield.

18 If the court arbitrarily counted the convictions
19 separately, it abused its discretion.

20 STATE V. HADDOCK, 141 wn.2d 103, 3 P.3d 733 at
21 [3] (2000);

22 RABON V. CITY OF SEATTLE, 135 wn.2d 278, 284, 957
23 P.2d 621 (1998).

24 Two (2) or more crimes encompass the same crim-
25 inal conduct for sentencing purposes if the crimes
26 (1) involve the same criminal intent, (2) are commi-
27 tted at the same time and place, and (3) involve
28 the same victim.

29 R.C.W. § 9.94A.585 (1) (a).

30 (1) Same criminal intent;

31 The court said the jury, could infer from Espey's
32 flight from the sheriff, he knowingly failed to
33 appear.

34 STATE V. ESPEY, No. #22561-1-II (1999).

35 The court said Fredrick fails to provide substantial
36 evidence to prove the affirmative defense to bail

1 jumping because Fredrick did not appear or surrender
2 until 21 days after Fredrick's original court date.
3 STATE V. FREDRICK, 123 WA. App. 347, 353-55, 97
P.3d 47 (2004).

4 From Mayfield's appearance to about 45 out of about 48 scheduled
5 court appearances over the course of a year; SEE EX. (8a,b,c,d)
6 Traveling 200 miles round trip between Ellensburg, and Tacoma,
7 Washington, each time. Together with Mayfield's compliance with
8 the affirmative defense portion of the bail jumping statute,
9 when after his attorney called him and informed him that he had
10 failed to appear, he, Mayfield, immediately made contact with
11 his bail bonding company and immediately appeared, and scheduled
12 a quash hearing which generally take about two weeks to come
13 before the court; SEE EX. (8a,c,e,f,g,h,i). A reasonable mind
14 could logically infer that Mayfield's criminal intent should
15 be regarded as unintentional, and objectively viewed, could
16 infer that Mayfield DID possess the same intent for each offense.
17 And therefore, satisfied the first element.

18 (2) Same time and place;

19 As required, like clock work, Mayfield appeared to about 45 out
20 of about 48 scheduled court proceedings at the same time and
21 place; 8:30 a.m. Tacoma county-city building, 930 Tacoma AVE.
22 S. Tacoma, WA. 98402, for over the span of a year. SEE EX. (8a,b,c,d)
23 Moreover, Mayfield was in compliance as it applies to him, within
24 the plain meaning of the statutory language of the law when he
25 failed to appear at the same time and place, 8:30 a.m. Tacoma
26 county-city building, 930 Tacoma AVE. S. Tacoma, WA. 98402, on
more than one occasion.

1 Plain and unambiguous statutory language
must be accepted on its face.

2 STATE V. JOHNSON, 66 wash. App. 297, 301,
831 P.2d 1137 (1992);

3 STATE V. ROBERTS, 117 wash. App. 576,
584, 817 P.2d 855 (1991).

4 Given the nature of the circumstances as they apply to
Mayfield, A reasonable mind could infer the word time to mean "TIME"
5 and not "DATE " To suggest otherwise, would imply a congruous double
6 ness of meaning, to signify both "DATE" and "TIME."

7 Thereby rendering the statute unconstitutionally vague and
8 ambiguous. Allowing the court to act within double standards in
9 which to arbitrarily enforce punishment, ending in inappropriate
10 results for the defendant Mayfield.

11 When a statute does not define a term the
12 court may ascertain its plain and
ordinary meaning from a standard
dictionary.

13 STATE V. RUSSELL, NO. #69334-0 at [74]
(2001).

14 TIME: a specific hour, day, season, year,
etc.

15 FUNK & WAGNALLS STANDARD DICTIONARY.

16 AMBIGUITY: doubleness of meaning; and
17 uncertainty of meaning or intention; as
in a statutory provision.

BLACKS LAW DICTIONARY.

18 VAGUE: Imprecise; not sharply outlined;
19 indistinct; not clearly or concretely
expressed.

BLACKS;

20 VAGUENESS: Uncertain breadth of meaning;
21 (the phrase "within a reasonable time" is
plagued by vagueness- What is
22 reasonable?)

BLACKS;

23 VOID FOR VAGUENESS: (of a penal statute)
24 Establishing a requirement or punishment
without specifying what is required or
25

1 what conduct is punishable and therefore
2 void because volative of Due Process.
3 BLACKS;

4 VAGUENESS DOCTRINE: Constitutional law;
5 The doctrine - based on the due process
6 clause - requiring that criminal statute
7 state explicitly and definitely, what
8 acts are prohibited so as to provide fair
9 warning and preclude arbitrary
10 enforcement.
11 BLACKS;

12 The doctrine of vagueness involves two
13 due process concepts (1) Notice of
14 conduct required and; (2) The right of a
15 citizen not to be the subject of
16 arbitrary enforcement of laws regulating
17 his or her conduct.
18 STATE V. WILSON, 96 Wash. App. 382, 980
19 P.2d (1999); citing -
20 STATE V. MYLES, 127 Wn.2d 807, 812, 903
21 P. 2d 979 (1995).

22 The following is a list of R.C.W. Statutes that do use the word
23 "DATE" in the phrase "SAME DATE, TIME AND PLACE" as a distinction
24 between "DATE" and "TIME."

25 R.C.W. 7.80.080; same date time and place
R.C.W. 7.84.060; same date time and place
R.C.W. 9.73.230; same date time and place
R.C.W. 9.73.260; same date time and place
R.C.W. 9.73.30; same date time and place
R.C.W. 9.41.090; same date time and place
R.C.W. 9A.82.120; same date time and place
R.C.W. 9A.44.130; same date time and place
R.C.W. 10.79.080; same date time and place
R.C.W. 10.79.150. same date time and place

26 In light of the above, a person of reasonable understanding could
27 infer that if legislature had intended the phrase SAME TIME AND
28

1 PLACE to mean SAME DATE, TIME and PLACE, they would have included
2 the word "DATE" in the statutory language of R.C.W. §9.94A.589.

3 Under the due process clause, a statute,
4 which criminalizes conduct, may not be
impermissibly vague in any of its
applications.

5 FORBES V. NAPOLITANO, 236 F.3d 1009 (9th
cir. 2000).

6 The Washington Supreme court emphasized
7 that the "touch stone" of the rule of
lenity is statutory ambiguity.

8 WASHINGTON V. FARMER, 100 wn.2d 334, 669
P.2d 1240 (1983).

9 Under the rule of lenity, ambiguous
10 criminal statutes must be strictly and
liberally construed in favor of the
defendant.

11 STATE V. JOHNSON, 66 wash. App. 297, 301,
831 P.2d 1137 (1992);

12 Eg STATE V. WILBUR, 110 wn.2d 16, 19, 749
P.2d 1295 (1988).

13 (3) Same victim;

14 Whether the victim in each case is the general public, or Mayfield's
15 bail bonding company, with whom Mayfield has remained in good
16 standing at all times. Or if the offense could be deduced a strict
17 liability crime, **a reasonable mind could** logically infer that the
victim in all counts are the same.

18 Mayfield sustained financial injury; i.e., court fees incurred;
19 additional raise in bail; an additional \$2,000.00 in fees with the
20 bail bond company; SEE EXHIBIT: (12)

21 Additional prison time; emotional stress.

22 Definition of "victim" according to the
23 sentencing reform act of 1981 (SRA): "Any
24 person who has sustained emotional,
25 psychological, physical or financial

1 injury to person or property as a direct
2 result of the crime charged."
3 R.C.W. §9.94A.030 (40).

4 The trial court abused its discretion or misapplied the law or both
5 by arbitrarily counting separately Mayfield's five (5) counts of
6 bail jumping convictions that he received at sentencing, without
7 the court engaging in a same criminal conduct analysis. And that
8 in accordance with the plain language of R.C.W. § 9.94A.589 same
9 criminal conduct, Mayfield satisfied all three (3) required elements
10 under the provisions of the statute for purposes of determining whe-
11 ther two or more crimes encompass the same criminal conduct for sen-
12 tencing purposes. Or, in the alternative;

13 In light of fundamental Due Process violations of "NOTICE" and the
14 right of Mayfield not to be the subject of arbitrary enforcement,
15 in the absence of an explicit and sufficiently definite warning and
16 concretely expressed, plain and unambiguous statutory language. The
17 court strike down and void R.C.W. § 9.94A.589 same criminal conduct
18 for being unconstitutionally vague and ambiguous, allowing the court
19 to act erroneously within double standards in which to arbitrarily
20 enforce punishment. In addition, under the rule of lenity, the court
21 should apply a more liberal application of same criminal conduct
22 to Mayfield for purposes of sentencing, to resolve the matter strictly
23 in favor of the defendant/appellant Mayfield, to produce congruous
24 results.

25 Conclusion:

Wherefore, in light of the above, Mayfield respectfully requests
the court to apply R.C.W. §9.94A.589(1) (a) same criminal conduct
to Mayfield to encompass Mayfield's five (5) counts of bail jumping
convictions as same criminal conduct and reverse the trial court
and remand Mayfield for resentencing based on a new offender score
of eight (8) points. Or, in the alternative; The R.C.W. § 9.94A.589
statute be struck down and void for being unconstitutionally vague
and ambiguous and apply the rule of lenity strictly and liberally
in favor of the defendant Mayfield. To encompass Mayfield's five
(5) counts of bail jumping convictions as same criminal conduct
and reverse the trial court and remand Mayfield for resentencing

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1 based on a new offender score of eight (8); or any other equitable
2 relief the court deems appropriate.

3 (7). Mayfield was denied the right to present a defense:

4 a). At trial, in absence of the jury, Mayfield's bail bond agent
5 gave proffer on Mayfield's behalf, but was not allowed to testify.
6 Prosecution said that Mayfield's conduct after the fact is irrele-
7 vant. SEE EX. (13 a,b)

8 Mayfield's conduct after he failed to appear in court is very
9 relevant. It embodies the very essence of an affirmative defense
10 to bail jumping as provided in R.C.W. § 9A.76.170(2); when he
11 appeared or surrendered after Mayfield's uncontrollable circum-
12 stances ceased to exist.

13 It is an affirmative defense to a prosecution under
14 this section that uncontrollable circumstances pre-
15 vented the person from appearing or surrendering
16 and that the person did not contribute to the crea-
17 tion of such circumstances in reckless disregard
18 of the requirement to appear or surrender, and that
19 the person appeared or surrendered as soon as such
20 circumstance ceased to exist.

21 R.C.W. § 9A.76.170 (2) BAIL JUMPING.

22 A criminal defendant has a constitutional right
23 to present a defense.

24 WASHINGTON V. TEXAS, 388 U.S. 14, 19, 87 S.Ct. 1920
25 18 L.Ed.2d 1019 (1967).

26 The Washington court described the importance of
the right as follows: The right to offer the testi-
mony of witnesses, and to compel their attendance,
if necessary, is in plain terms the right to present
a defense, the right to present the defendant's
version of the facts as well as the prosecution's
to the jury so it may decide where the truth lies.
Just as an accused has the right to confront the
prosecution's witnesses for the purpose of challeng-
ing their testimony, he has the right to present
his own witnesses to establish a defense. This right
is a fundamental element of due process of law.

WASHINGTON, supra, at 19; cited with approval by
STATE V. SMITH, 101 wn.2d 36, 41, 677 P.2d 100 (1984)

45

1 The right to compulsory process includes the right
2 to present a defense.
3 STATE V. BURRI, 87 wn.2d 175, 181, 550 P.2d 507 (1976).

4 Washington, defines the right to present witnesses
5 as a right to present material and relevant testimony.
6 STATE V. SMITH, 101 wn.2d 36, 41, 677 P.2d 100 (1984).

7 A constitutional error is harmless if the appellate
8 court is convinced beyond a reasonable doubt that
9 any reasonable jury would have reached the same
10 result in the absence of the error. Violation of
11 the defendant's constitutional right to compulsory
12 process is assumed to be prejudicial, and the State
13 has the burden of showing the error was harmless.
14 STATE V. MAUPLIN, 128 wn.2d 918, 928-29, 913 P.2d
15 808 (1996).

16 The trial courts refusal to allow the testimony of Mayfield's
17 bail bond agent deprived Mayfield of his right to present a defense.
18 Mayfield's bail bond agent was a critical witness who could provide
19 independent, expert, corroboration of Mayfield's compliance to
20 the bail jumping statute after he failed to appear in court.

21 FINAL CONCLUSION:

22 Wherefore Mayfield's final prayer is to respectfully request this
23 honorable court to correct the many cumulative errors of excessive
24 ineffective assistance of counsel and excessive prosecution in
25 Mayfield's case, and reverse the trial court's order and suppress
26 the evidence obtained as the product of both searches of Mayfield's
residence and used against Mayfield at trial. Remand Mayfield
for a "FRANKS" hearing and a new trial with the evidence suppressed.
In addition to adding the omitted elements of the affirmative
defense to bail jumping to the jury instructions, and allow May-
field's bail bond agent to testify in the presence of the jury.
Dismiss or reverse Mayfield's multiple counts of bail jumping
Or, encompass Mayfield's multiple counts of bail jumping as same
criminal conduct. Or, in the alternative, strike down the same
criminal conduct statute for being vague and ambiguous, and apply
the rule of lenity to Mayfield and resentence Mayfield based on
the correct offender score.

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1 Or any other equitable relief as may seem just to the court to
2 correct the erroneous portion of Mayfield's sentence and conviction.

3
4 Attached to Mayfield's Personal Restraint Petition, please find
5 the supplemental Exhibit/Affidavit from Mayfield's step-father
6 Mr. Waschell to be included and attached to the attorney for appel-
7 lant's opening brief, in support of Mayfield's argument to the
8 "States insufficient evidence to establish that Mr. Mayfield ever
9 knowingly possessed a handgun."

10 Attached as Aux. EX.
11
12
13
14

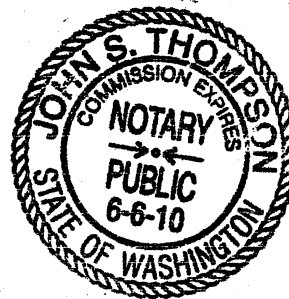
15 I, Charles Keith Mayfield, declare under penalty of perjury the
16 above to be true and correct to the best of my knowledge.

17 Sworn this day of;

18 Date: 8-29-06
19 Charles K. Mayfield
20 X C. May

21
22 NOTARY PUBLIC

23 My commission expires on 6/6/10
24
25
26



1 this, the officers obtained a search warrant for the
2 property in Bonney Lake, which was owned by Rosella
3 Waschell, address 19616 94th Street East in Bonney
4 Lake.

5 I think it's very clear that the search
6 warrant, the complaint for the search warrant which
7 was drafted and executed by Officer Alfano was not
8 sufficient under the -- either the U.S. Constitution
9 or the Washington State Constitution to get a search
10 warrant in this matter. There is nothing to
11 indicate that any independent investigation was
12 done. There's nothing to indicate -- to connect
13 criminal activity to the home.

14 The officer states very simply that he had
15 seen Joe Shockey at this residence on several
16 occasions. There's nothing to, in fact, indicate
17 that the residence at which he had seen Joe Shockey
18 was, in fact, the residence of Mr. Shockey's
19 brother, that the four corners of this affidavit do
20 not give probable cause for the issuance of the
21 warrant. I think that it's clear that it does not
22 meet the Aguillar/Spinelli test.

23 There's nothing about the reliability of the
24 informant. Nothing other than Mr. Ellefson's
25 statement that there were some -- perhaps some

1 motorcycle parts at the home of Joe Shockey's
2 brother, Chuck. There's nothing, in fact, to
3 indicate that the residence owned by Mrs. Waschell
4 was that residence. So I think it's very clear that
5 this was a general exploratory search. There was
6 not sufficient probable cause for the issuance of
7 the initial warrant.

8 When the officers served that initial
9 warrant, which was signed by Judge Armijo, they
10 discovered further evidence of illegal activity,
11 went back in front of Judge Fleming and obtained
12 what they call an addendum to the search warrant,
13 which allowed them to search for evidence of illegal
14 drug activity. It was during that second search
15 authorized by the second search warrant that most of
16 the evidence relevant in this case was seized, Your
17 Honor. And again, but for the first warrant, the
18 officers would not have been able to legally enter
19 that residence, and so the second warrant is equally
20 suspect because the only way the officers were able
21 to obtain the second warrant was through the
22 execution of the first warrant.

23 So, I think it's very clear that, in this
24 case, all of the evidence seized in this case was
25 seized because of the issuance of a search -- the

1 improper issuance of the search warrant, and we're
2 asking that all of that evidence be suppressed.

3 Just very quickly, there are some other
4 motions which were not filed, general motions
5 that -- and that would be motions in limine, 404(b)
6 motions, and we are asking --

7 THE COURT: And we'll deal with them
8 next.

9 MS. LUNDAHL: Okay. Thank you.

10 THE COURT: Thank you.

11 MR. TRINEN: Your Honor, with regard to
12 the search warrant issue, the search warrant issues
13 upon a determination of probable cause. And here,
14 what's happened, just in terms of giving you the
15 totality of the facts as alleged in the four corners
16 of the document itself, because that is the standard
17 of review, what happened is that there was a theft
18 incident that had been reported to Bonney Lake P.D.
19 involving a power saw and a vehicle that hadn't been
20 returned. I don't know if that was being alleged
21 stolen at the time.

22 But in any case, the vehicle was associated
23 with the theft incident. One of the officers pulled
24 the vehicle over. Inside the vehicle, the driver
25 was Mr. Ellefson and he had a passenger with him.

Ex. 1c

1 In the back seat of the vehicle, officers observed a
2 number of motorcycle parts. They already know that
3 they're investigating a possible theft, so they find
4 it suspicious that there's a bunch of motorcycle
5 parts in the back seat. The passenger indicates to
6 him that she wants -- they tell her she can leave
7 the scene, and she indicates she wants to get
8 something out of the trunk. So, they go back to the
9 trunk and it's opened up, and inside the trunk, they
10 see more motorcycle parts, including a license
11 plate. So, they get curious and run the license
12 plate and find out the motorcycle is, in fact,
13 stolen, so they now know Mr. Ellefson is in
14 possession of stolen motorcycle parts.

15 They talk to the passenger. Well, first,
16 Mr. Ellefson tells them that he gets the motorcycle
17 parts from an individual named Joe Shockey and that
18 he first got them at a Fisher residence and the
19 Fisher residence is apparently the mother of the
20 passenger of the vehicle. The passenger of the
21 vehicle, while the officers have her stopped there,
22 indicates to them that the rest of the motorcycle is
23 over at her mother's house. She takes the officers
24 over to the house, consents to let them search, and
25 they find the motorcycle absent the carburetor and

Ex. 1d

1 the gas tank. Ellefson had told the officers that
2 he was given the parts for the motorcycle from
3 Mr. Shockey, but he didn't have everything yet and,
4 specifically, he was missing the carburetor and the
5 gas tank. Mr. Shockey had told him that those were
6 at his brother's house, his brother Chuck, at Swiss
7 Park in Bonney Lake. One second.

8 (Pause in proceedings.)
9

10 MR. TRINEN: So, they recover the
11 motorcycle that's absent the gas tank and the
12 carburetor, and they know that Ellefson is trying to
13 obtain the gas tank and the carburetor, and they
14 know that Ellefson has been told by Shockey he has
15 the parts at his brother's house next to Swiss Park.

16 Then the officers indicate that they were --
17 the officers involved in these incidents, including
18 the affiant, are very familiar with the residence
19 located next to the Swiss Sportsman's Club, and they
20 know Joe Shockey regularly frequents that address,
21 so they obtain a warrant on that basis.

22 We would argue to the Court that there is a
23 nexus and there is probable cause here.
24 Specifically, they've got parts that they know to be
25 related to a stolen motorcycle that are missing from

1 the officer claims he has seen Mr. Shockey. So I
2 think Mr. Trinen has given a broad picture here,
3 but, in fact, the language of the affidavit itself
4 is simply insufficient to support this initial
5 search warrant.

6 THE COURT: I disagree, and I agree with
7 the State's interpretation. I think there was
8 probable cause for the police and the State to look
9 for the gas tank and the carburetor and other stolen
10 parts at Chuck's house next to Swiss Park in Bonney
11 Lake, the residence to which Mr. Ellefson was going
12 when he was stopped for the purpose of obtaining
13 those parts. And I think that, since Mr. Ellefson
14 was going to obtain those parts from Mr. Shockey at
15 Chuck's residence, which was connected with Swiss
16 Park and Bonney Lake, it was proper for the State to
17 look at any vehicles registered to Mr. Shockey that
18 might be located there. I think the warrant is
19 sufficient within its four corners.

20 I'll take the next pretrial motion in
21 limine.

22 MS. LUNDAHL: The next motion I have is
23 simply a 404(b) motion, Your Honor, and I would ask
24 that the Court prohibit the State from bringing up
25 any evidence concerning the defendant's past

EX. 1F

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

COMPLAINT FOR SEARCH WARRANT
(EVIDENCE)

FILED
IN COUNTY CLERK'S OFFICE
MAY 26 2004 P.M.
PIERCE COUNTY, WASHINGTON
BY KEVIN STOCK, County Clerk DEPUTY

STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

NO: 04-1 07376 8

COMES NOW Officer Kurtis M. Alfano, who being first duly sworn on oath complains and says: That on or about May 24th, 2004, in Pierce County, Washington, felony, to-wit: **POSSESSION OF STOLEN PROPERTY SECOND DEGREE** a violations of **R.C.W. 9A.56.160**, was committed by the act, procurement or omission of another, that the following evidence, to-wit:

- 1) GREEN GAS TANK TO A 1998 SUZUKI KATANA GSX 750 MOTORCYCLE BEARING WASHINGTON LICENSE PLATE NUMBER 595212
- 2) FOUR SILVER GAS CARBURATOR TO A 1998 SUZUKI KATANA GSX 750 MOTORCYCLE BEARING WASHINGTON LICENSE PLATE NUMBER 595212
- 3) THE PERSON OF JAMES J. SHOCKEY.

that the above material is necessary to the investigation and/or prosecution of the above described felony for the following reasons: as evidence of the continuing crime of **POSSESSION OF STOLEN PROPERTY SECOND DEGREE**, a violation of **R.C.W. 9A.56.160**.

1)The residence is a single story family mobile home, white in color with brown trim. The residence has an attached carport with several vehicles in and around the property. The address is 19616 94th Street East in Bonney Lake, Washington. The residence is registered to Rozella M. Waschell, with Pierce County parcel number 4490500360.

2) All vehicle's registered to the suspect James J. Shockey located on the property listed above.

Affiant believes that the above evidence is concealed in or about this location based upon the following facts and circumstances:

AFFIANT Officer Kurtis M. Alfano
Training and Experience

Affiant Alfano has been a fully commissioned law enforcement officer with the Bonney Lake Police Department since 04/12/2000 and was previously a commissioned law enforcement officer with the Buckley Department for over 5 years; Affiant is currently assigned to patrol with secondary duties as a Bonney Lake Police Department narcotics/property investigator. Affiant Alfano has completed the Washington State Criminal Justice 440 hour Basic Law Enforcement Academy; Affiant Alfano has completed a 40 Clandestine Drug Labs/Marijuana Grow course sponsored by CADRE incorporated. Affiant Alfano is a certified Clandestine Drug Lab Technician and a member of the Pierce County Sheriff Department's Clandestine Lab Team where Affiant has executed numerous controlled substance search warrants. Affiant Alfano has

Ex. 2a

served numerous controlled substance search warrants in the past as a Bonney Lake Police Officer, and as a member of the Metro-Pierce Special Response/High Risk Search Warrant Entry Team. In addition to formal training, Affiant Alfano has been personally involved in numerous Thefts, Possession of Stolen Property arrests resulting in more than Twenty (20) convictions for Theft, and Possession of Stolen Property related crimes:

PROBABLE CAUSE:

On May 23, 2004 at 1741 hours, Officer Lien responded to the 6700 block of Vandermark Road for a theft/burglary report. Officer Lien contacted the victim John P. Hofer and a witness Edward A. Elliot. Hofer advised Officer Lien that he was missing a yellow Dewalt Blade Saw bearing serial number 114134 from his job site. Hofer advised Officer Lien that the Dewalt Blade Saw was stolen from his job site where he is building a residence under construction. Hofer advised Officer Lien that Elliot is helping him build the residence and that he had information as to who may have taken the saw.

Officer Lien spoke with Elliot. Elliot advised Officer Lien that he lives next door to the residence under construction at 6704 Vandermark Road. Elliot advised Officer Lien that on May 22, 2004 at 8:00 pm, his friend Matthew B. Ellefson came over to his house to borrow some money. Elliot told Officer Lien that he gave Ellefson some money and the keys to his 1986 Dodge Aries "K" passenger car. Elliot stated that around 10:00 pm that night he observed Ellefson and his girlfriend Brandy walking around the new home under construction. Elliot stated that Ellefson was in and out of the house several times throughout the night and the last time he saw him there was at 1:30 am on May 23rd, 2004. At around 2:00 am Elliot stated that he walked over to the house. Elliot said that noticed the saw missing from a red lock box located in the downstairs of the house.

Elliot advised Officer Lien that around 7:30 am on May 23rd, 2004 Ellefson came back to his house. Elliot confronted Ellefson about the missing blade saw. Ellefson denied stealing the blade saw and told Elliot that he would return his vehicle on Monday May 24th.

Hofer told Officer Lien that another neighbor had seen Ellefson and a female subject parked in a car near a wooded area on Vandermark Road. Officer Lien contacted the neighbor who identified himself as Nunzio D. Longordo. Longordo lives at 6606 Old Vandermark Road. Longordo stated that on May 23rd, 2004 at 7:30 am his wife asked him to check on a suspicious vehicle that was parked across the street in a wooded area. Longordo stated that he walked outside and observed a blue mid 1980's four-door passenger car backed up to the wooded area. Longordo stated that the vehicle immediately left the area when the occupants saw him. Longordo stated that a female was driving the vehicle and the other subject was a male passenger. Longordo stated that he was able to obtain a partial license plate of 673-GY. At 1630 hours Longordo walked over to the woods and checked around. Longordo stated that he observed the blade saw underneath some plywood and shrubbery. Longordo walked over to the house and contacted Hofer. Hofer advised Longordo that the blade saw was his. At the time Officer Lien wrote his police report, (04-1232) Ellefson had not returned Elliots vehicle.

On May 24, 2004 at 2120 hours Officer Scott Lien of the Bonney Lake Police Department conducted a vehicle stop on a 1986 Dodge Aries "K" car, bearing Washington License number 673-MGC. Officer Lien stopped the vehicle at 7209 West Tapps Highway in Bonney Lake,

Washington. Officer Lien had previous knowledge that the vehicle was the suspect vehicle in a theft/burglary that occurred on May 23rd, 2004. (The theft/burglary incident is listed above.)

Officer Lien contacted the driver of the vehicle and asked the subject for his license. The driver stated that he did not have a driver's license and identified himself as Matthew B. Ellefson. Officer Lien had Ellefson step from the vehicle and advised him why he was being stopped. Ellefson immediately told Officer Lien that he stole the yellow Dewalt Blade Saw. Ellefson also told Officer Lien that he had a warrant for his arrest out of the City of Bonney Lake. Officer Lien confirmed that Ellefson had the warrant and placed him under arrest. Officer Lien advised Ellefson of his Miranda Rights. Ellefson stated that he understood his rights and agreed to talk with Officer Lien. Ellefson told Officer Lien that he took the Blade Saw in hopes of selling it for money. Ellefson stated that he put the blade saw in the truck of Elliotts vehicle and had Sawyer drive him down the road. Ellefson stated that he put the saw blade in the woods underneath some plywood. Ellefson stated that he then left the area.

Officer Lien saw that there was a female passenger in the car and several motorcycle parts located in the backseat. Officer Lien had Officer James Larsen of the Bonney Lake Police Department contact the female passenger and advise her of what was occurring. Officer Larsen contacted the female and she identified herself as Brandy K. Sawyer. Sawyer advised Officer Larsen that she was the girlfriend of Ellefson. Officer Larsen advised Sawyer what was going on and also told her she was free to leave. Sawyer asked Officer Larsen if it was ok to grab her personal belongings from the trunk of the car. Sawyer opened the trunk of the car and Officer Larsen noticed several more motorcycle parts including a Washington Motorcycle License Plate, bearing number 595212.

At the same time Officer Larsen was releasing Sawyer, Officer Lien questioned Ellefson about the motorcycle parts located in the backseat. Ellefson became very nervous and stated that he just bought a Suzuki Katana motorcycle from a friend named Joe Shockey. Officer Lien observed Sawyer open the trunk of the car and went and contacted Officer Larsen. Officer Larsen noticed that all the parts appeared to come from the same motorcycle. A records check of the license number later revealed that the parts were from a stolen motorcycle reported by the Pierce County Sheriff's Office on May 7th, 2004.

Officer Lien returned and contacted Ellefson. Officer Lien again questioned Ellefson about the motorcycle parts. Ellefson stated that he first observed the motorcycle at Steve and Shari Fishers house in South Hill, Puyallup. Ellefson stated that his friend Joe Shockey brought the motorcycle to the house and wanted to trade the motorcycle to him for a DVD player, a pressure washer, and a battery charger. Ellefson stated that he agreed to the deal and then took the motorcycle over to Sawyer's mothers house at 7520 187th Street Court East about one week ago. Ellefson stated that he returned to the Fisher house a few days later because Shockey had the rest of the parts to the motorcycle. Ellefson stated that he assembled the motorcycle over at Sawyer's house and noticed that he was still missing parts. Ellefson told Officer Lien that he was missing the gas tank and the carburetor. Ellefson spoke with Shockey again and asked him about the gas tank and carburetor. Shockey told Ellefson that the tank and the carburetor were located at his brother Chuck's house over by Swiss Park in Bonney Lake.

Ellefson told Officer Lien that he became suspicious of the motorcycle and thought it might be stolen. Ellefson advised Officer Lien that he spoke with Shockey again and Shockey agreed to buy the motorcycle back for \$200. Ellefson stated that he was on his way to Shockey's brothers house to contact Shockey and return the motorcycle parts when Officer Lien stopped him.

Officer David Thaves of the Bonney Lake Police Department arrived on the traffic stop and contacted Sawyer. Sawyer advised Officer Thaves that the motorcycle was located at her mother's house. Sawyer advised the officers that she would take them to her mother's house and retrieve the motorcycle. Officer Thaves transported Sawyer to her mother's residence. Officer Thaves obtained consent to search for the motorcycle. Sawyer led Officer Thaves to the motorcycle, which was located on the side of the house. Officer Thaves recovered the motorcycle and obtained photographs. The motorcycle is missing the gas tank, and the carburetor. The motorcycle's vehicle identification number plate had been rubbed off and it was not identifiable.

Officer Lien spoke with the registered owner of the motorcycle and he responded to the traffic stop. The registered owner of the motorcycle identified the parts in the car and later identified the motorcycle as being his. The registered owners name is Lucas Meier. Meier came back as the registered owner of the motorcycle plate in the trunk of the car.

Officer's involved in these incidents, including your affiant are very familiar with the residence located next to the Swiss Sportsmans Club. Your affiant has seen Joe Shockey at the residence on several occasions. Your affiant knows the address to be 19616 94th Street East in Bonney Lake, Washington.

Your affiant requested an NCIC III criminal history check for James J. Shockey, which revealed felony convictions for Attempt to Elude and Unlawful Possession of a Controlled Substance, and misdemeanor convictions for Possession of Stolen Property, and Theft.

Your affiant requested an NCIC III criminal history check for Charles K. Shockey, which revealed felony convictions for Unlawful Possession of a Controlled Substance.

DESCRIPTION OF PROPERTY TO BE SEARCHED

Due to the above information, Affiant verily believes that the above evidence is concealed in or about a particular house or place, to-wit:

- 1) The residence is a single story family mobile home, white in color with brown trim. The residence has an attached carport with several vehicles in and around the property. The address is 19616 94th Street East in Bonney Lake, Washington. The residence is registered to Rozella M. Waschell, with Pierce County parcel number 4490500360.
- 2) All vehicles registered to James J. Shockey
- 3) The person of James J. Shockey.

Ex. 2d

Based on all the foregoing information, along with Affiant's experience in conducting stolen property investigations, Affiant verily believes that the illegal activity of possession of stolen property exists at the above described properties and that there is probable cause to search the property located at: 19616 94th Street East in Bonney Lake, Washington in Pierce County to include those structures as described in the preceding section and vehicles registered to the suspect (James J. Shockey.) Possessing stolen property 2nd degree is a violation of the Revised Code of Washington, Section 9A.56.160.

KMA

Officer Kurtis M. Alfano

Subscribed and sworn to before me this

24

day of

MAY

, 20

04

[Signature]

SUPERIOR COURT JUDGE

for years around Bonney Lake
it's been kinda joke, the joke being
if I ever get busted for anything
I'd say I got it from Joe Shockey
mostly because he's done so
many other people wrong, me
included over and over. The name
is Jimmy how I know Joe well
I've heard these kinds of statements
alot and from many

Jimmy Lane
2-5-06

I declare the above to be true and
correct under penalty of perjury.

Ex 3

To whom it may Concern,

Tuesday, August 15, 2006

I, Matthew Bennet Ellefson, D.O.B. 09/05/1970, make this following true and voluntary statement.

On or about the night of May 23rd, 2004 I was found in possession of a stolen motorcycle.

My response to police questioning in regards to said stolen motorcycle was a complete fabrication in an attempt to avoid prosecution.

Neither Joe Shockey, Nor his brother Charles Mayfield had any knowledge of the said stolen motorcycle or the said stolen motorcycle parts in question.

I am making this statement of my own free will and I am under no duress or threat of harm. I certify that my statement is true to the best of my knowledge and belief.

Sworn this day 15th of August, 2006

Print name MATTHEW B. ELLEFSON

Signature *Matthew B Ellefson*

Subscribed to and sworn before me this 15 day of Aug. of 2006



Nicole Winger
Notary Public in and for the State of
Washington residing at Sumner
WA

Ex. 4

Pierce County Superior Court Criminal Case 02-1-02740-9

Defendant: **MATTHEW BENNETT ELLEFSON**
 Access: Public
 Jurisdiction: SUPERIOR CT - PIERCE CTY
 Initial Arrest Date: 06/12/2002
 Initial Bail Amount: \$10,000.00

Attorneys

| Type | Name | Firm | Role |
|------------|-----------------|----------------------|--------------|
| Prosecutor | ANTONIO HILL | Prosecuting Attorney | LEAD COUNSEL |
| Defense | JENIECE LACROSS | | LEAD COUNSEL |
| Defense | DAVID LACROSS | | CO COUNSEL |

Charges

| Count | Type | Description | RCW | Disposition |
|-------|----------|---|--|--------------------|
| 1 | Original | POSSESSING STOLEN PROPERTY IN THE FIRST DEGREE | <u>9A.56.140(1)</u> , <u>9A.56.150(1)</u> | |
| | Final | POSSESSING STOLEN PROPERTY IN THE FIRST DEGREE | <u>9A.56.140(1)</u> , <u>9A.56.150(1)</u> | DISM/OTHER REASONS |

Filings e-file document

| Filing Date | Filing | Access | Pages |
|-------------|--|--------|-------|
| 06/13/2002 | INFORMATION & PROBABLE CAUSE | Public | 3 |
| 06/13/2002 | PRE-TRIAL REPORT | Public | 2 |
| 06/13/2002 | ORDER SETTING TRIAL DATE | Public | 1 |
| 06/13/2002 | ORDER ESTABLISHING CONDITIONS OF RELEASE | Public | 2 |
| 06/17/2002 | NOTICE OF APPEARANCE SPECIAL | Public | 1 |
| 06/27/2002 | ORDER SETTING TRIAL DATE | Public | 1 |
| 06/28/2002 | BAIL BOND | Public | 1 |
| 07/03/2002 | NOTICE OF APPEARANCE | Public | 1 |
| 07/03/2002 | ORDER FOR HEARING | Public | 1 |
| 07/16/2002 | OMNIBUS ORDER | Public | 2 |
| 07/25/2002 | STATE'S LIST OF WITNESSES | Public | 2 |
| 07/26/2002 | RETURN ON SUBPOENA 3 | Public | 3 |
| 08/05/2002 | ORDER SETTING TRIAL DATE | Public | 1 |
| 08/05/2002 | ORDER FOR CONTINUANCE OF TRIAL DATE | Public | 1 |
| 08/05/2002 | WAIVER OF SPEEDY TRIAL | Public | 1 |

EX. 5

INSTRUCTION NO. 20

To convict the defendant of the crime of bail jumping, each of the following elements of the crime must be proved beyond a reasonable doubt:

- (1) That on or about the 9th day of September, 2004 for Count III, and on or about the 3rd day of November, 2004 for Count IV, the defendant failed to appear before a court;
- (2) That the defendant was charged with Unlawful Possession of a Controlled Substance with Intent to Deliver and/or Unlawful Possession of a Firearm in the Second Degree;
- (3) That the defendant had been released by court order or admitted to bail with knowledge of the requirement of a subsequent personal appearance before that court;
- (4) That the acts occurred in the State of Washington; and
- (5) That the defendant has failed to establish the affirmative defense of uncontrollable circumstances by a preponderance of the evidence.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

Ex. 7

| | | |
|------------|--|----------|
| 03/06/2006 | VERBATIM REPORT TRANS TO DIV II *05-06-05*VOL 9 | Public |
| 03/07/2006 | Transmittal Letter VRP Copy Filed | Public 1 |
| 03/08/2006 | VERBATIM REPORT TRANS TO DIV II *04-11-05* | Public |
| 03/17/2006 | Transmittal Letter VRP Copy Filed | Public 1 |
| 03/17/2006 | Transmittal Letter VRP Copy Filed | Public 1 |
| 03/21/2006 | NOTICE OF FILING A VERBATIM REPORT | Public 1 |
| 03/21/2006 | VERBATIM REPORT TRANS TO DIV II *11-19-04* | Public |
| 03/24/2006 | STATEMENT regarding verbatim report of proceedings | Public 1 |
| 03/28/2006 | VERBATIM REPORT TRANS TO DIV II *09-09-04* | Public |
| 03/28/2006 | VERBATIM REPORT TRANS TO DIV II *09-28-04* | Public |
| 03/28/2006 | VERBATIM REPORT TRANS TO DIV II *09-28-04* | Public |
| 03/28/2006 | VERBATIM REPORT TRANS TO DIV II *06-02-04* | Public |

Proceedings

| Date | Judge | Dept Type | Outcome |
|---------------------|------------------------------------|--------------------------|------------------|
| 05/25/2004 01:30 PM | CRIMINAL DIVISION 2 | CD2 ARRAIGNMENT | ARRAIGN |
| 06/08/2004 08:30 AM | CRIMINAL DIVISION 2 | CD2 PRE-TRIAL CONFERENCE | CONTINU |
| 06/15/2004 08:30 AM | CRIMINAL DIVISION 2 | CD2 PRE-TRIAL CONFERENCE | HELD |
| 06/22/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ CONTINUANCE | HELD |
| 07/01/2004 08:30 AM | CRIMINAL DIVISION 2 | CD2 PRE-TRIAL CONFERENCE | CONTINU |
| 07/08/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | CONTINU |
| 07/08/2004 08:30 AM | CRIMINAL DIVISION 2 | CD2 PRE-TRIAL CONFERENCE | HELD |
| 07/21/2004 08:30 AM | CRIMINAL DIVISION 2 | CD2 OMNIBUS HEARING | HELD |
| 08/03/2004 09:00 AM | CRIMINAL DIVISION 2 | CD2 REARRAIGNMENT | CANCELL |
| 08/10/2004 09:00 AM | CRIMINAL DIVISION 2 | CD2 REARRAIGNMENT | CONTINU |
| 08/12/2004 09:00 AM | CRIMINAL DIVISION 1 | CD1 REARRAIGNMENT | CONTINU |
| 08/23/2004 09:00 AM | CRIMINAL DIVISION 2 | CD2 REARRAIGNMENT | CANCELL |
| 08/26/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | CONTINU |
| 08/26/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ CONTINUANCE | HELD |
| 08/26/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ REARRAIGNMENT | HELD |
| 09/09/2004 08:30 AM | CRIMINAL DIVISION 2 | CD2 OMNIBUS HEARING | DEF FTA, ORDEREC |
| 09/28/2004 01:30 PM | CRIMINAL DIVISION 2 | CD2 QUASH | HELD |
| 10/06/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | CANCELL |
| 10/14/2004 01:00 PM | CRIMINAL DIVISION 2 | CD2 PRE-TRIAL CONFERENCE | HELD |
| 10/27/2004 08:30 AM | CRIMINAL DIVISION 2 | CD2 OMNIBUS HEARING | CONTINU |
| 11/03/2004 08:30 AM | CRIMINAL DIVISION 2 | CD2 OMNIBUS HEARING | DEF FTA, ORDEREC |
| 11/19/2004 01:30 PM | CRIMINAL DIVISION 1 | CD1 QUASH | HELD |

Ex. 8a

| JUDGE | | | |
|--|----------------------------------|--|------------------|
| 01/26/2005 08:30 AM CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | | HELD |
| 02/03/2005 09:00 AM CRIMINAL DIVISION 1 | CD1 REARRAIGNMENT | | HELD |
| 02/16/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | | CONTINU |
| 02/23/2005 08:30 AM CRIMINAL DIVISION 1 | CD1 RETURN WITH ATTY | | HELD |
| 02/23/2005 08:30 AM CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | | CONTINU |
| 03/02/2005 08:30 AM CRIMINAL DIVISION 2 | CD2 OMNIBUS HEARING | | CANCELL |
| 03/10/2005 10:00 AM CRIMINAL DIVISION 1 | CD1 PLEA DATE | | CANCELL |
| 03/14/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ CONTINUANCE | | HELD |
| 03/17/2005 08:30 AM CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | | CONTINU |
| 04/01/2005 01:30 PM KATHRYN J. NELSON | 13 STATUS CONFERENCE HEARING | | HELD |
| 04/11/2005 09:30 AM KATHRYN J. NELSON | 13 PLEA DATE | | CANCELL |
| 04/21/2005 09:30 AM KATHRYN J. NELSON | 13 MOTION-SUPPRESS (3.5,3.6,7.8) | | CONTINU |
| 04/21/2005 09:30 AM KATHRYN J. NELSON | 13 MOTION (NOT CONTINUANCE) | | CONTINU |
| 04/25/2005 08:30 AM KATHRYN J. NELSON | 13 JURY TRIAL | | DEF FTA, ORDEREC |
| 04/25/2005 09:30 AM KATHRYN J. NELSON | 13 MOTION (NOT CONTINUANCE) | | CANCELL |
| 04/25/2005 09:30 AM KATHRYN J. NELSON | 13 MOTION-SUPPRESS (3.5,3.6,7.8) | | CANCELL |
| 05/18/2005 01:30 PM KATHRYN J. NELSON | 13 QUASH | | CANCELL |
| 07/15/2005 01:30 PM CRIMINAL DIVISION 2 | CD2 BAIL HEARING - BENCH WARRANT | | HELD |
| 08/12/2005 01:30 PM KATHRYN J. NELSON | 13 PRE-TRIAL CONFERENCE | | CANCELL |
| 08/12/2005 01:30 PM KATHRYN J. NELSON | 13 PLEA DATE | | PLEA & S |
| 09/06/2005 08:30 AM KATHRYN J. NELSON | 13 JURY TRIAL | | CANCELL |

Incidents

| | | |
|-----------------|-------------------------------|------------|
| Incident Number | Law Enforcement Agency | Offense Da |
| 032611 | BONNEY LAKE POLICE DEPARTMENT | 09/20/200. |

Superior Court Co-Defendants

| | |
|--------------|-----------|
| Cause Number | Defendant |
|--------------|-----------|

Judgments

| | | | | |
|---------------------|-----------------------|---------------------------------|------------|----|
| Cause # | Status | Signed | Effective | Fi |
| <u>05-9-09385-5</u> | OPEN as of 08/12/2005 | KATHRYN J. NELSON on 08/12/2005 | 08/12/2005 | 0 |

- Hearing and location information displayed in this calendar is subject to change without not changes to this information after the creation date and time may not display in current vers
- Confidential cases and Juvenile Offender proceeding information is not displayed on this cal
- Confidential case types are: Adoption, Paternity, Involuntary Commitment, Dependency, an
- The names provided in this calendar cannot be associated with any particular individuals wi individual case research.

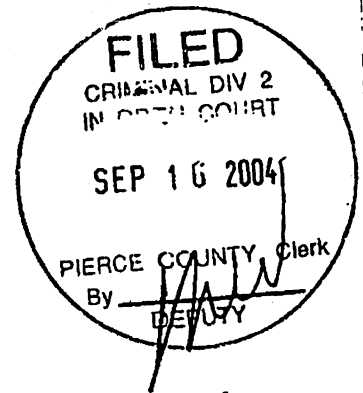
Ex. 86

| | | | |
|------------|--|--------|---|
| 03/08/2006 | VERBATIM REPORT TRANS TO DIV II *04-11-05* | Public | |
| 03/17/2006 | Transmittal Letter VRP Copy Filed | Public | 1 |
| 03/17/2006 | Transmittal Letter VRP Copy Filed | Public | 1 |
| 03/21/2006 | VERBATIM REPORT TRANS TO DIV II 08-23-04* | Public | |
| 03/21/2006 | VERBATIM REPORT TRANS TO DIV II *11-03-04* | Public | |
| 03/21/2006 | VERBATIM REPORT TRANS TO DIV II *11-19-04* | Public | |
| 03/21/2006 | NOTICE OF FILING A VERBATIM REPORT | Public | 1 |

Proceedings

| Date | Judge | Dept Type | Outcome |
|---------------------|------------------------------------|------------------------------|------------------|
| 04/27/2004 01:30 PM | CRIMINAL DIVISION 1 | CD1 CASE ISSUED-SUMM/ARRAIGN | ARRAIGN |
| 05/13/2004 01:00 PM | CRIMINAL DIVISION 1 | CD1 PRE-TRIAL CONFERENCE | HELD |
| 06/02/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ CONTINUANCE | DEF FTA, ORDEREC |
| 06/10/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | CANCELL |
| 06/11/2004 01:30 PM | CRIMINAL DIVISION 1 | CD1 QUASH | HELD |
| 07/01/2004 01:00 PM | CRIMINAL DIVISION 1 | CD1 PRE-TRIAL CONFERENCE | HELD |
| 07/08/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | CONTINU |
| 07/21/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | CONTINU |
| 08/03/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | NOT HELI |
| 08/10/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | CONTINU |
| 08/12/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | CONTINU |
| 08/23/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | NOT HELI |
| 08/23/2004 09:00 AM | CRIMINAL DIVISION 1 | CD1 REARRAIGNMENT | HELD |
| 08/26/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | CONTINU |
| 08/26/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ CONTINUANCE | HELD |
| 09/09/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | DEF FTA, ORDEREC |
| 09/28/2004 01:30 PM | CRIMINAL DIVISION 2 | CD2 QUASH | HELD |
| 10/13/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | CANCELL |
| 10/14/2004 01:00 PM | CRIMINAL DIVISION 1 | CD1 PRE-TRIAL CONFERENCE | HELD |
| 10/27/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | DEF FTA, ORDEREC |
| 10/27/2004 01:30 PM | CRIMINAL DIVISION 2 | CD2 QUASH - ADMINISTRATIVE | HELD |
| 11/03/2004 08:30 AM | CRIMINAL DIVISION 1 | CD1 OMNIBUS HEARING | DEF FTA, ORDEREC |
| 11/19/2004 01:30 PM | CRIMINAL DIVISION 1 | CD1 QUASH | HELD |
| 12/02/2004 01:00 PM | CRIMINAL DIVISION 1 | CD1 PRE-TRIAL CONFERENCE | HELD |
| 12/09/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ CONTINUANCE | HELD |
| 12/13/2004 08:30 AM | CRIMINAL DIVISION- PRESIDING JUDGE | CDPJ JURY TRIAL | CANCELL |
| 01/04/2005 08:30 AM | CRIMINAL DIVISION- PRESIDING | CDPJ JURY TRIAL | CONTINU |

Ex. 8c



IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON

State of Washington,

Plaintiff

NO. 04-1-02556-9

vs.

Charles Mayfield
Defendant

SCHEDULING ORDER

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant:

| Approval No | Hearing Type | Date | Time | Courtroom |
|---|--|-------------|-------------|------------|
| | <input type="checkbox"/> Pretrial Conference | ,20 | AM/PM | |
| | <input type="checkbox"/> Omnibus Hearing | ,20 | 8:30 AM | |
| | <input type="checkbox"/> Status Conference | ,20 | 8:30 AM | CDPJ |
| | <input type="checkbox"/> Motion: | ,20 | AM/PM | CDPJ |
| <input type="checkbox"/> Pros. agrees 3.6 hrg. necessary <input type="checkbox"/> Testimony expected <input type="checkbox"/> Time estimated: | | | | |
| | <input type="checkbox"/> TRIAL | ,20 | 8:30 AM | CDPJ |
| 1269274 | <u>Quash</u> | <u>9/28</u> | <u>1:30</u> | <u>CD2</u> |
| | <input type="checkbox"/> | ,20 | AM/PM | |

2. The defendant shall be present at these hearings and report to the courtroom indicated at 930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

- 3.
- ☒
- DAC; Defendant will be represented by Department of Assigned Counsel.

☐ Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

Dated 9/15, 2004.

Copy Received:

Locked up @ Court
Defendant desk

smg
Attorney for Defendant/Bar # 33402

JUDGE

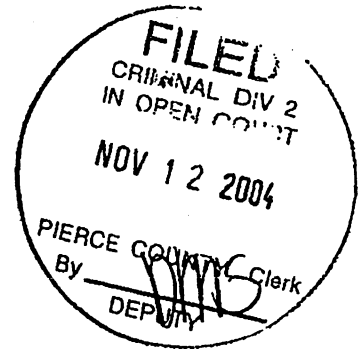
Stephanie [Signature]
Ben Nichols
Prosecuting Attorney/Bar # 12053

Ex. 8e

James Oliver



04-1-02556-9 22094757 ORH 11-15-04



IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON

State of Washington,

Plaintiff

NO. 04-1-02556-9

vs.

Charles Mayfield

Defendant

SCHEDULING ORDER

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant:

| Approval No | Hearing Type | Date | Time | Courtroom |
|---|--|-------------|------------|-----------|
| | <input type="checkbox"/> Pretrial Conference | ,20 | AM/PM | |
| | <input type="checkbox"/> Omnibus Hearing | ,20 | 8:30 AM | |
| | <input type="checkbox"/> Status Conference | ,20 | 8:30 AM | CDPJ |
| | <input type="checkbox"/> Motion: | ,20 | AM/PM | CDPJ |
| <input type="checkbox"/> Pros. agrees 3.6 hrg. necessary <input type="checkbox"/> Testimony expected <input type="checkbox"/> Time estimated: | | | | |
| 1291934 | <input checked="" type="checkbox"/> TRIAL | ,20 | 8:30 AM | CDPJ |
| | <input checked="" type="checkbox"/> COLLASH | 11/19, 2004 | 1:30 AM/PM | CD2 |
| | <input type="checkbox"/> | ,20 | AM/PM | |

2. The defendant shall be present at these hearings and report to the courtroom indicated at 930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

- 3.
- ☐
- DAC; Defendant will be represented by Department of Assigned Counsel.

☐ Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.Dated November 5, 2004.

Copy Received:

Notified by receptionist

Defendant

Attorney for Defendant/Bar #

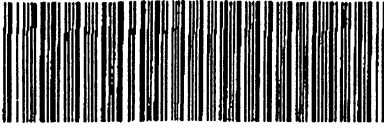
JUDGE

Prosecuting Attorney/Bar # 12053

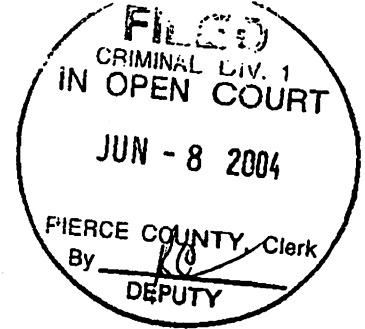
EX. 8F

Currie

2525 6/9/2004 00128



04-1-01851-1 21133842 ORH 06-09-04



IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON

State of Washington,

Plaintiff

vs.

Charles Mayfield
Defendant

NO. 04-1-01851-1

SCHEDULING ORDER

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant:

| Approval No | Hearing Type | Date | Time | Courtroom |
|---|--|-------------------|-------------------|------------|
| | <input type="checkbox"/> Pretrial Conference | ,20 | AM/PM | |
| | <input type="checkbox"/> Omnibus Hearing | ,20 | 8:30 AM | |
| | <input type="checkbox"/> Status Conference | ,20 | 8:30 AM | CDPJ |
| | <input type="checkbox"/> Motion: | ,20 | AM/PM | CDPJ |
| <input type="checkbox"/> Pros. agrees 3.6 hrg. necessary <input type="checkbox"/> Testimony expected <input type="checkbox"/> Time estimated: | | | | |
| | <input type="checkbox"/> TRIAL | ,20 | 8:30 AM | CDPJ |
| <u>190</u> | <input type="checkbox"/> | ,20 | AM/PM | |
| <u>1330780</u> | <u>Quash</u> | <u>6-11, 2004</u> | <u>1:30 AM/PM</u> | <u>CDJ</u> |

2. The defendant shall be present at these hearings and report to the courtroom indicated at 930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

3. ☐ DAC; Defendant will be represented by Department of Assigned Counsel.
☐ Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

Dated 6-8, 2004.

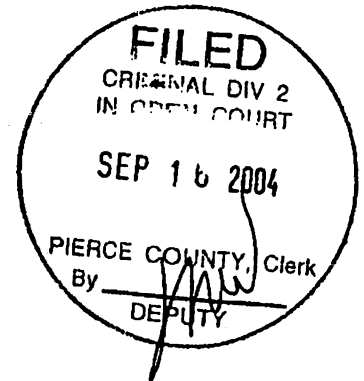
Copy Received:

Notified by mail
Defendant

Dana Guy
Attorney for Defendant/Bar # 34152

Linda C. Lee **LINDA CJ LEE**
JUDGE
[Signature]
Prosecuting Attorney/Bar #

Ex. 89



IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON

State of Washington,

Plaintiff

NO. 04-1-01851-1

vs.

Charles Mayfield
Defendant

SCHEDULING ORDER

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant:

| Approval No | Hearing Type | Date | Time | Courtroom |
|---|--|-------------|-------------|----------------|
| | <input type="checkbox"/> Pretrial Conference | ,20 | AM/PM | |
| | <input type="checkbox"/> Omnibus Hearing | ,20 | 8:30 AM | |
| | <input type="checkbox"/> Status Conference | ,20 | 8:30 AM | CDPJ |
| | <input type="checkbox"/> Motion: | ,20 | AM/PM | CDPJ |
| <input type="checkbox"/> Pros. agrees 3.6 hrg. necessary <input type="checkbox"/> Testimony expected <input type="checkbox"/> Time estimated: | | | | |
| | <input type="checkbox"/> TRIAL | ,20 | 8:30 AM | CDPJ |
| 126929 | <u>W. Dusk</u> | <u>9/28</u> | <u>2004</u> | <u>1:30 AM</u> |
| | <input type="checkbox"/> | ,20 | AM/PM | |

2. The defendant shall be present at these hearings and report to the courtroom indicated at 930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

- 3.
- ☒
- DAC; Defendant will be represented by Department of Assigned Counsel.

☐ Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

Dated 9/15, 20 04

Copy Received:

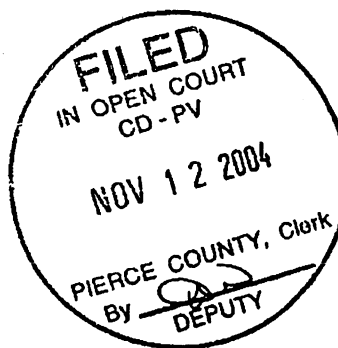
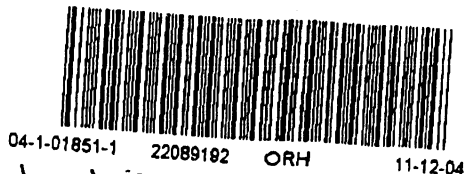
Picked up @ front
Defendant dak

ma
Attorney for Defendant/Bar # 33402

JUDGE

Stephanie [Signature]
Prosecuting Attorney/Bar # 12053

Ex. 8h



IN THE SUPERIOR COURT FOR PIERCE COUNTY WASHINGTON

State of Washington,

Plaintiff

NO. 04-1-01851-1

vs.

Charles Mayfield
Defendant

SCHEDULING ORDER

IT IS HEREBY ORDERED that:

1. The following court dates are set for the defendant:

| Approval No | Hearing Type | Date | Time | Courtroom |
|---|--|-------------|---------|-----------|
| | <input type="checkbox"/> Pretrial Conference | ,20 | AM/PM | |
| | <input type="checkbox"/> Omnibus Hearing | ,20 | 8:30 AM | |
| | <input type="checkbox"/> Status Conference | ,20 | 8:30 AM | CDPJ |
| | <input type="checkbox"/> Motion: | ,20 | AM/PM | CDPJ |
| <input type="checkbox"/> Pros. agrees 3.6 hrg. necessary <input type="checkbox"/> Testimony expected <input type="checkbox"/> Time estimated: | | | | |
| | <input type="checkbox"/> TRIAL | ,20 | 8:30 AM | CDPJ |
| 1292270 | QUASH | 11/19, 2004 | 1:30 PM | CDI |
| | <input type="checkbox"/> | ,20 | AM/PM | |

2. The defendant shall be present at these hearings and report to the courtroom indicated at 930 Tacoma Avenue South, County-City Building, Tacoma, Washington, 98402

FAILURE TO APPEAR WILL RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

- 3.
- ☐
- DAC; Defendant will be represented by Department of Assigned Counsel.

☐ Retained Attorney; Defendant will hire their own attorney or, if indigent, be Screened (interviewed) for Department of Assigned Counsel Appointment.

Dated November 8, 2004

Copy Received:

Defendant

Attorney for Defendant/Bar #

JUDGE

Prosecuting Attorney/Bar # 12053

Ex. 8 I

ORIGINAL

FILED
IN PIERCE COUNTY SUPERIOR COURT

A.M. JUN 06 2006 P.M.

PIERCE COUNTY, WASHINGTON
KEVIN STOCK, County Clerk
BY _____ DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

STATE OF WASHINGTON,

Plaintiff,

vs.

CHARLES K. MAYFIELD

Defendant.

S/C

04-1-01851-1

04-1-02556-9

COA NO. 33734-7-II

REPORTER'S TRANSCRIPT ON APPEAL
PAGES 1-21

FRIDAY, AUGUST 12, 2005

Pierce County Courthouse

Tacoma, Washington

Before the

HONORABLE KATHRYN J. NELSON

A P P E A R A N C E S

For the State:

Stephen D. Trinen
Deputy Prosecuting Attorney

For Defendant Mayfield:

Karen McCarty Lundahl
Attorney at Law

Carol Lynn Frederick, CCR
Official Pro Tem Court Reporter
(253) 566-1542

FILED
COURT OF APPEALS
JANUARY 11
06 JUN 20 AM 10:51
STATE OF WASHINGTON
BY _____ DEPUTY

Ex. 11a

1 understanding that it would not be the equivalent
2 of any violent offense and would not disqualify him
3 from a DOSA sentencing alternative.

4 It's undisputed that he has a lot of points,
5 Your Honor, but I would point out that six of those
6 points come from basically the imposition of what
7 would almost be a double whammy because he was
8 charged with bail jump, Your Honor. Several counts
9 of bail jump doubled because hearings were set on
10 the same day for each of these cause numbers, and
11 for each time that he failed to appear on those he
12 ended up -- Your Honor, he was either convicted of
13 or now has pled guilty to two offenses and gets two
14 points basically for each one of those, and, again,
15 a large number of the points that he has at this
16 point come from those bail jumps and I would point
17 out that on each and every one of those while he
18 did fail to appear he set quash hearings and did
19 show up eventually. He didn't skip the country.
20 He didn't leave so I think that that needs to be
21 taken into account.

22 The Court has had an opportunity to review the
23 letter from Janet Macri, a person for whom he has
24 done work very recently who obviously speaks very
25 highly of him. I've also had the opportunity to

1 somewhere in the system or out.

2 I know you've heard these words before, Your
3 Honor, from other men in despair and in my
4 situation, but I have faith that God is real and he
5 will walk with me and lead me. I turned 46 years
6 old, Your Honor, just three days ago and this is a
7 shameful awakening. As I stand here before you now
8 in serious trouble, I face the truth about myself,
9 Your Honor, and I have no choice but to change one
10 thing in my life and that's everything.

11 I pray that it's your decision not to send me
12 away from home for too long. My mother is sick
13 with cancer, Your Honor, and I have had my own
14 ongoing concerns with cancer as well. I know that
15 I've broken my mother's heart again. Your Honor,
16 please let me make it home before it's too late to
17 mend her heart. I just want to show her how much I
18 do love her and that maybe I have turned out to be
19 a good man like she's always hoped that I would. I
20 place myself at your mercy, Your Honor. Thank you.

21 MR. TRINEN: Your Honor, if I could
22 have just a little rebuttal, on the case that he
23 was convicted on at trial, there were two counts of
24 bail jumping, so even assuming the defense's
25 argument that as a practical matter you should kind

1 of regard those as identical offenses, that still
2 would only reduce his score to an 11 which is still
3 well above the maxed out point range and so I
4 believe my argument still pertains.

5 MS. LUNDAHL: Your Honor, if I could
6 just say one thing, I think I would put it down to
7 a 10 rather than an 11 with that math. The other
8 point, Your Honor, that I did not address in my
9 argument is that on the 04-1-01851-1 case, the
10 State's recommendation included a \$1,000 fine which
11 it was agreed that we could argue, Your Honor, and
12 I would ask that because he's being sentenced for
13 both of these cases and will have legal financial
14 obligations for both of them that you waive all or
15 part of that fine, Your Honor.

16 He's going to have significant legal/financial
17 obligations when he's released from custody and we
18 would ask that with respect to the fine that you
19 waive that, Your Honor.

20 THE COURT: Thank you. I don't find
21 that this case is appropriate for DOSA. However, I
22 am going to choose the low end of the range for the
23 count that carries the most largest fine and
24 sentence you to 51 months. With respect to the
25 other matters, I'm going to sentence you to 43

STATEMENT

EXPRESS BAIL BONDS, INC.

1112 SOUTH YAKIMA AVE.
TACOMA WA 98405
(253) 274-9999
8/18/05

TO: ROZELLE WASCELL
431 UPPER GREEN CANYON
ELLENSBURG WA 98926

Account Name: CHARLES KEITH MAYFIELD
Account Balance: \$2,075.00
Payment Terms:

| Date | Activity Description | Activity Amount | Balance |
|----------|--|-----------------|------------|
| 4/26/02 | Bond Fee: (\$10000 Bond) | \$1,000.00 | \$1,000.00 |
| 4/26/02 | Payment: Cash | (\$1,000.00) | \$0.00 |
| 7/16/02 | Forfeiture Fee: FTA (FAILURE TO APPEAR) | \$50.00 | \$50.00 |
| 8/1/02 | Bond Fee: (\$2500 Bond) | \$250.00 | \$300.00 |
| 8/1/02 | Payment: Cash | (\$250.00) | \$50.00 |
| 12/30/02 | Payment: Check#2797 | (\$50.00) | \$0.00 |
| 4/28/04 | Bond Fee: (\$3500 Bond) | \$350.00 | \$350.00 |
| 4/28/04 | Miscellaneous Fee: PAYMENT PLAN FEE | \$25.00 | \$375.00 |
| 5/5/04 | Payment: Cash | (\$375.00) | \$0.00 |
| 5/30/04 | Bond Fee: (\$10000 Bond) | \$1,000.00 | \$1,000.00 |
| 5/30/04 | Payment: Check | (\$1,000.00) | \$0.00 |
| 6/2/04 | Forfeiture Fee: FTA (FAILURE TO APPEAR) | \$100.00 | \$100.00 |
| 9/9/04 | Forfeiture Fee: FAIL TO APPEAR | \$100.00 | \$200.00 |
| 9/9/04 | Forfeiture Fee: FTA (FAILURE TO APPEAR) | \$100.00 | \$300.00 |
| 10/17/04 | Forfeiture Fee: FTA (FAILURE TO APPEAR) | \$100.00 | \$400.00 |
| 10/17/04 | Miscellaneous Fee: PREP. ON DOT/ OFFICE TIME | \$75.00 | \$475.00 |
| 10/17/04 | Miscellaneous Fee: FILING FEES | \$22.00 | \$497.00 |
| 11/3/04 | Forfeiture Fee: fta fee | \$100.00 | \$597.00 |
| 11/5/04 | Payment: Cash | (\$100.00) | \$497.00 |
| 11/19/04 | Payment: Cash | (\$288.00) | \$209.00 |
| 2/10/05 | Bond Fee: (\$7500 Bond) | \$750.00 | \$959.00 |
| 2/10/05 | Bond Fee: (\$5000 Bond) | \$500.00 | \$1,459.00 |
| 2/10/05 | Payment: Cash | (\$109.00) | \$1,350.00 |
| 2/10/05 | Payment: Cash | (\$1,250.00) | \$100.00 |
| 5/4/05 | Forfeiture Fee: fail to appear fee | \$100.00 | \$200.00 |
| 7/14/05 | Forfeiture Fee: OFFICE&INVESTIGATION TIME | \$250.00 | \$450.00 |
| 7/14/05 | Forfeiture Fee: PHONE TRACE | \$75.00 | \$525.00 |
| 7/14/05 | Forfeiture Fee: SURRENDER | \$1,275.00 | \$1,800.00 |
| 7/15/05 | Forfeiture Fee: LEGAL TO EXONERATE | \$275.00 | \$2,075.00 |

Ex. 12

1 further questions.

2 MR. TRINEN: I have no questions for the
3 witness, Your Honor, although I do have argument.

4 THE COURT: Okay. If you'd like to step
5 outside, we'll call you when we're ready.

6 THE WITNESS: Sure.

7 THE COURT: Objections to this witness
8 going forward.

9 MR. TRINEN: Yes, Your Honor. The
10 State's objection is that she has nothing to say
11 that's relevant in this instance. The issue is that
12 he's charged with two counts of bail jumping on
13 specific dates, and the fact that he's maintained
14 contact with her in no way goes to support the
15 affirmative defense and in no way excuses his
16 failures to appear in court. And therefore, her
17 testimony is not relevant to the issue before the
18 court. For that reason, I would ask the Court to
19 strike her as a witness.

20 MS. LUNDAHL: Your Honor, I believe that
21 her testimony is relevant. She is -- she is, in
22 fact, the owner of the company that has posted bond
23 for Mr. Mayfield in this instance. I believe her
24 testimony that he has maintained contact with them,
25 that on the occasions where it's alleged that he

Ex. 13a

1 what he did after the bail jumps occurred. The
2 issue is whether he was in court when he was ordered
3 to be in court and whether or not he had a
4 legitimate excuse for that and he can establish
5 that. She has no testimony to that whatsoever.

6 THE COURT: I agree. I'm not going to
7 allow the witness. Let's go through the --

8 MS. LUNDAHL: Okay. Your Honor, can I
9 advise her so that she can leave?

10 THE COURT: Yes, you may. I'll give you
11 a moment, Ms. Lundahl, to finish looking at the
12 packet, and then we'll come out and go over the jury
13 instructions.

14 MS. LUNDAHL: Thank you, Your Honor.

15 (Court at recess.)

16
17 (The following proceedings were held
18 out of the presence of the jury.)

19
20 THE COURT: Okay. This is on the record.
21 Looking at our packet, are there any exceptions to
22 Instruction 1, State?

23 MR. TRINEN: None, Your Honor.

24 THE COURT: Defense?

25 MS. LUNDAHL: No, Your Honor.

Ex. 136

STATE OF WASHINGTON
COUNTY Pierce

State of Washington,
Respondent

v.

Charles K. Mayfield
Petitioner

No. 33740-1-II

AFFIDAVIT OF SERVICE BY MAIL

06 SEP 21 PM 12:12

FILED
COURT OF APPEALS

State of Washington)
County of Pierce) ss.

I, Charles K. Mayfield, depose and say:

That I am a citizen of the United States over the age of 18 and competent to make
this affidavit.

That on this 19 day of Sep., 2006, I deposited in the United States mail

Postage prepaid, addressed as follows:

Court of Appeals
Division II
950 Broadway Ste. 300
Tacoma, WA. 98402-4454
David Panzoha Clerk/Admin

Service of Mailing
Page 1 of 2

Alicia Marie Burton
Pierce County Prosecutor
930 Tacoma Ave S. Rm 946
Tacoma, WA. 98402-2171

Copies of the following documents in the above entitled cause.

STATEMENT OF ADDITIONAL GROUNDS

I declare under the penalty of perjury that the forgoing is true and correct to the best of my knowledge. Executed on 9-19-06 Pursuant to 28

U.S.C.. ss.1746.


Signature

Charles Mayfield #268840

Printed Name/DOC Number

WCC

P.O. Box 900

Address

Shelfon, WA 98584